
SUSAN COMBS
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS



Request for Proposals (RFP No. 210b)
for the
Clean Energy Incubator
Emerging Clean Technology Program
for the
State Energy Conservation Office (SECO)

Anticipated Schedule of Events	Date
RFP Issuance:	June 13, 2014
Non-mandatory Webinar:	June 18, 2104
Written Questions Due:	June 20, 2014
Response to Questions Posted:	June 27, 2014
Proposals Due:	July 11, 2014
Contract Execution:	August 15, 2014
Commencement of Work:	September 1, 2014

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PART I INTRODUCTION AND BACKGROUND

1.1 Introduction

The State Energy Conservation Office (“SECO”) of the Texas Comptroller of Public Accounts (“Comptroller”) seeks to help clean energy companies grow and develop new markets for clean technologies through the development and sustainability of Clean Energy Incubators (“CEIs”) at public universities in Texas. Accordingly, Comptroller issues this Request for Proposals No. 210b (“RFP”) to solicit proposals from Texas public universities for the creation and/or expansion of CEIs.

All requisite services are referred to as “Services” in this RFP. Each university or campus submitting a proposal in response to this RFP shall be referred to as a “Respondent.” The selected Respondent, if any, is hereinafter referred to as the “Successful Respondent.”

As a result of this RFP, Comptroller anticipates executing a contract with Successful Respondent to perform the Services as described in this RFP (the “Contract”). Comptroller reserves the discretion to award one or more contracts pursuant to the terms of this RFP. This RFP is intended for both new and existing CEIs

1.2 Background

SECO administers and delivers a variety of energy efficiency programs which significantly impact energy costs and consumption in the institutional, industrial, transportation, and residential sectors. Specifically, these programs provide: (1) technical resources to assist in the utilization of energy more efficiently; (2) financial assistance for completion of energy retrofits; (3) educational materials to help make the public aware of the necessity for an energy efficient society; and (4) the study, development, and utilization of renewable or innovative energy resources and demonstration programs throughout the state.

The SECO Emerging Clean Energy Technology Project (“ECETP”) is funded through the State Energy Program and has been approved by the United States Department of Energy (“DOE”). Oil overcharge funds are monetary settlements returned to the states as a result of litigation by DOE against certain oil companies for alleged violations of price controls in effect between 1973 and 1981. The courts returned these funds to the states for use in certain energy programs deemed to provide restitution to citizens aggrieved by the overcharges. Oil overcharge funds are subject to the program guidelines of the DOE and the terms of the final Exxon and Stripper Well Settlement Agreements.

PART II SCOPE OF WORK

2.1 Goals of CEIs and Service Description

A. Goal of CEIs

SECO seeks to help clean energy companies grow and develop new markets for clean energy technologies. This will be accomplished through the development and sustainability of CEIs at higher education institutions in Texas. Successful Respondent shall provide Services for the creation or expansion of CEIs, or the creation of CEI corridors anchored by a CEI that is located at a higher education campus. CEIs will collaborate with the local community, government resources, and academic resources to provide strategic and operational counsel, as well as infrastructure support, to enable young clean energy companies to thrive, create jobs, and grow into self-sustaining entrepreneurial companies. CEIs will also engage in ecosystem development for the region.

As the CEIs mature, it is anticipated they will leverage SECO funding with a progression of other funding sources. The more mature the funding source, the more balanced portfolio of funding sources is expected.

Production incentives or subsidies for the installation and operation or demonstration of any technology will not be funded under this RFP, nor will technology development activities.

B. Service Description

Successful Respondent shall, at a minimum, perform the following tasks:

- Initiate or expand a CEI and/or CEI Corridor in Texas;
- Develop and submit a business process to consistently identify and incubate successful new clean energy companies, which includes:
 - a. A strategy for establishing and maintaining a collaboration process with institutions, industrial companies, the local community, and investors;
 - b. Identification of project risks; and
 - c. Development of mitigation strategies for project risks;
- Track business processes using metrics through Monthly and Quarterly (state fiscal year quarters) Status Reports, a Final Close-Out Report;
- Track economic impact of incubator and incubated companies to the region and to the State of Texas;
- Track environmental impact of incubator and incubated companies to the region and to the State of Texas;
- Establish a strategy for sustaining the CEI and/or CEI Corridor following the completion of the Contract. If Respondent received funding in a prior announcement, Respondent should discuss the strategy or strategies for sustaining the CEI and/or CEI Corridor with reduced funding or in the scenario of not receiving an award;
- Develop cost projections including a detailed budget for the plan, including any costs and/or sharing of funding, partnering, etc;
- Develop a cost-sharing table identifying the allocation of funding. Respondent's Proposal should show non-SECO funding of at least a twenty (20%) percent match of the total cost of the project. Cost sharing can be from the Respondent, other team members, and other private sources. No federal cost-sharing funding is allowed. Contributions of direct labor (for which the laborer is paid as an employee) and purchased materials may be considered "cash" contributions. Unpaid labor, indirect labor, or other general overhead may be considered "in-kind" contributions. SECO will not pay for efforts which have already been undertaken. Respondent cannot claim as cost-share any expenses that have already been incurred;
- Work with SECO's Innovative Energy Demonstration Program and other SECO contractors as required; and
- Deliver all other reasonably-related services, when requested by Comptroller and SECO.

2.2 Term of Contract; Sample Contract

If a Contract is awarded, the initial term of the Contract shall begin September 1, 2014, or as soon thereafter as practical, and terminate August 31, 2015. Comptroller, in its sole discretion, may exercise the option to extend the Contract for two (2) additional one (1) year periods. Those periods are September 1, 2015 through August 31, 2016 and September 1, 2016 through August 31, 2017.

A Contract awarded under this RFP, if any, shall be based on the Sample Contract included as Exhibit A of this RFP and shall incorporate this entire RFP. The Sample Contract includes boilerplate provisions, and Comptroller reserves the right, in its sole discretion, to make a contract award without negotiation of these provisions. In the event Comptroller requires negotiations with Respondents, any modifications or clarifications agreed to with Successful Respondent during contract negotiations shall also be incorporated into the final executed Contract. Each Respondent must review these terms and conditions in Exhibit A and otherwise in this RFP and address any concerns or issues in its transmittal letter. Terms and conditions not specifically objected to in the transmittal letter will be deemed to be accepted by Respondent. Comptroller has final approval of any contract awarded as a result of this RFP. Comptroller reserves the right, in its sole discretion, to modify the terms and conditions of the Sample Contract in the best interests of the State prior to signature by the parties. Notwithstanding any exceptions or any other provision of Respondent's proposal to the contrary, Successful Respondent shall indemnify Comptroller and the State of Texas, as specified in the Sample Contract. The State of Texas, Comptroller and their respective employees, officers, agents, and representatives, will not indemnify Successful Respondent for any amount for any purpose, and any provisions to the contrary are void.

PART III GENERAL INFORMATION

3.1 Authority

This RFP is issued pursuant to the legal authority granted in Chapter 403, Section 403.11; Chapter 447, Section 447.006; Chapter 2305, Section 2305.037; Chapter 2156, Section 2156.121; and Chapter 771 of the Texas Government Code.

3.2 Comptroller Rights

In the best interest of Comptroller and the State, Comptroller, in its sole discretion, may amend or modify any provisions of this RFP, or withdraw this RFP at any time prior to award of a Contract. Comptroller reserves the right, in its sole discretion, to reject any or all submitted proposals or to select one or more qualified Respondents to this RFP without discussion of proposals with the respective Respondents.

The decision of Comptroller or its designee with regard to the above shall be administratively final. Comptroller, in its sole discretion, may waive administrative deficiencies and/or minor technicalities in proposals received. All proposals shall become a part of Comptroller's official procurement files and may be available for public inspection upon execution of a Contract, if any.

3.3 Respondent Obligations

Respondents to this RFP are responsible for any expense related to the preparation and submission of a proposal. Comptroller shall not pay for any cost that is incurred by Successful Respondent prior to the effective date of the Contract. Qualified firms with the requisite experience are invited to submit proposals in accordance with this RFP. Proposals must address all specifications.

3.4 Successful Respondent Obligations

Comptroller shall look solely to Successful Respondent for performance of the Contract. Successful Respondent shall provide the requested Services under the direction of Comptroller. Successful Respondent shall be the sole point of Contract responsibility. Successful Respondent shall be liable, both individually and severally, for the performance of all obligations under the awarded Contract and shall not be relieved of the non-performance of any subcontractor.

3.5 Schedule of Events

Comptroller anticipates that the selection of Successful Respondent and execution of the Contract, if any, will proceed according to the following approximate schedule:

June 13, 2014	-	Issuance of RFP (after 10:00 a.m. CT)
June 18, 2014	-	Non-mandatory Webinar
June 20, 2014	-	Deadline for Submission of Questions (2:00 p.m. CT)
June 27, 2014	-	Electronic Posting of Official Responses to Questions (or as soon thereafter as practical)
July 11, 2014	-	Deadline for Submission of Proposals (2:00 p.m. CT) (Late proposals will not be considered)
August 15, 2014	-	Contract Execution (or as soon thereafter as practical)
September 1, 2014	-	Commencement of Work (or as soon thereafter as practical)

The times stated in this document refer to Central Time (“CT”), Austin, Texas, where appropriate. Comptroller’s regular office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except national and official State of Texas holidays. All deadlines are subject to change at Comptroller’s sole discretion.

Notices of changes to items directly impacting the original RFP or proposal process will be posted on the Electronic State Business Daily (“ESBD”) located at: <http://esbd.cpa.state.tx.us>. Any amendment to this solicitation will be posted as an addendum on the ESBD. It is the responsibility of interested parties to periodically check the ESBD for updates to the procurement prior to submitting a proposal. Respondent’s failure to periodically check the ESBD for updates will in no way release Successful Respondent from compliance with any requirements in the “addenda or additional information” even if such compliance results in additional costs to meet the requirements.

3.6 Issuing Office

Comptroller, through its Contracts Section, is the Issuing Office and the sole point of contact for this RFP. The Contracts Section is the only office authorized to clarify, modify, amend, alter, or withdraw the specifications, terms, and conditions of this RFP and any contract awarded as a result of this RFP. Upon issuance of this RFP, other employees of Comptroller shall not answer questions or otherwise discuss the contents of this RFP with any Respondents or their representatives. Failure to observe this restriction may result in disqualification of any pending or subsequent proposal. This restriction does not preclude discussions unrelated to this RFP. **Except as otherwise indicated, all communications concerning this procurement must be in writing and addressed to the Issuing Office as follows:**

Jason Frizzell
Assistant General Counsel, Contracts
Texas Comptroller of Public Accounts
LBJ State Office Building
111 East 17th Street, Room 201
Austin, Texas 78774
Fax: 512-463-3669
Email: contracts@cpa.state.tx.us

Proposals sent via U.S. Postal Service (“USPS”) must be sent to Jason Frizzell at P. O. Box 13528, Austin, Texas, 78711-3528, rather than the street address for hand or overnight delivery above.

3.7 Submission of Questions

Respondents may submit questions to the Issuing Office no later than 2:00 p.m. by the deadline set forth in the Schedule of Events. Questions concerning this RFP must be in writing and addressed to the Issuing Office. Respondents are encouraged to email questions to the Issuing Office to ensure timely receipt. On or about the date set forth in the Schedule of Events, Comptroller expects to electronically post answers to the written questions on the ESBID located at: <http://esbd.cpa.state.tx.us>.

3.8 Deadline for Submission of Proposals; Delivery Instructions; Number of Copies Required

One original and eight (8) copies of each sealed proposal must be submitted to and received in the Issuing Office no later than 2:00 p.m. on July 11, 2014. Late proposals will not be considered under any circumstances. The boxes must be sealed and labeled with “RFP No. 210b for the Clean Energy Incubator Emerging Clean Technology Program for the State Energy Conservation Office (SECO)” and the name and address of Respondent.

Respondents are solely responsible for verifying Comptroller’s receipt of all proposals by the deadline specified above. Comptroller shall not be liable or responsible for any costs whatsoever incurred in submission of a proposal in response to this RFP. Faxed and emailed proposals are not acceptable and will not be considered.

Comptroller prefers hand or overnight delivery of the sealed proposals to the Issuing Office. Delivery persons must allow time to process through Comptroller Security Desk on the ground floor of the LBJ Building before being granted access to the Issuing Office. Delivery persons must carry and present a valid and current photo identification card to the Security Desk in order to receive an escort to the Issuing Office. If, after delivery the sealed box or boxes are opened by Comptroller and the proposal is determined to be non-compliant, the proposal will be disqualified and the box or boxes returned to Respondent at Respondent’s sole cost and expense.

If sending a proposal by regular mail, certified mail, or express mail, it is incumbent upon Respondent to allow for sufficient time to permit timely delivery by the USPS and by mail services internal to Comptroller. A USPS postmark or round validation stamp, a mail receipt with the date of mailing stamped by the USPS, a dated shipping label, invoice, or receipt from a commercial carrier, or any other documentation in lieu of the Issuing Office on-site time stamp WILL NOT be accepted. For purposes of meeting the 2:00 p.m. delivery deadline, the Issuing Office’s date and time stamp machine will be considered conclusive in all respects.

At the time of submission of the hard copies by the deadline for proposals, Respondent must also deliver to Comptroller four (4) electronic copies of its complete proposal as follows:

- Two (2) CDs, each CD containing a complete copy of Respondent’s proposal in *searchable* pdf format. A complete copy of the proposal includes all documents contained in the proposal submitted in response to this RFP, including those documents with Respondent’s signature. The CDs should be titled: “Complete copy of [Name of Respondent]’s Proposal. Comptroller’s RFP No. 210b.”

- Two (2) CDs, each CD containing a copy of Respondent's proposal, in *searchable* pdf format, which has excised, blacked out, or otherwise redacted information from its proposal that Respondent reasonably considers to be confidential and exempt from public disclosure under the Texas Public Information Act, Chapter 552 of the Texas Government Code (this should be a *de minimis* portion, if any, of Respondent's proposal, such as social security numbers or email addresses). The CDs shall also contain an appendix for Respondent's proposal which provides a cross reference for the location of each piece of material redacted by Respondent and a general description of the redacted information. The CDs should be titled "For Public Release: Redacted Version of [Name of Respondent]'s Proposal and Exhibits. Comptroller's RFP No. 210b."

Under Section 322.020 of the Texas Government Code, the Legislative Budget Board ("LBB") has implemented a database of state agency contracts. See the LBB website at www.lbb.state.tx.us. Comptroller shall upload to the LBB's contract database the text of the complete Contract, including Successful Respondent's proposal (with limited redaction and appendix) no later than ten (10) days after date of Contract award. In submitting a proposal in response to this RFP, Respondent acknowledges that it understands and accepts this requirement.

In the event there are inconsistencies between any paper and electronic versions of the proposal, Comptroller will rely on the original proposal signed by Respondent.

3.9 Confidential Information; Nondisclosure; Open Records

All information gathered, produced, derived, obtained, analyzed, controlled or accessed by Respondent in connection with a contract resulting from this RFP ("Confidential Information"), shall be and remain Confidential Information and shall not be released or disclosed by Respondent without the prior written consent of Comptroller, which consent must specifically identify the Confidential Information to be disclosed by Respondent and the nature of the disclosure for which consent is sought. Respondent must execute and return with its proposal a Nondisclosure Agreement with Comptroller, in the form of Exhibit E attached hereto.

Following the award of a Contract, responses to this RFP are subject to release as public information unless the response or specific parts of the response can be shown to be exempt from the Texas Public Information Act. All Respondents are advised to consult with their legal counsel regarding disclosure issues and take the appropriate precautions to safeguard trade secrets or any other proprietary information. Comptroller assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by Respondents.

If a Respondent believes that any portion of a proposal is confidential, then Respondent must so specify. Respondent must stamp in bold red letters the term "CONFIDENTIAL" on that specific part or page of the proposal which Respondent believes to be confidential. Respondent must submit in writing specific detailed reasons, including any relevant legal authority, stating why Respondent believes the material to be confidential. Vague and general claims as to confidentiality will not be accepted. Comptroller will be the sole judge as to whether a claim is general and/or vague in nature. All proposals and parts of proposals which are not marked as confidential will be automatically considered public information after the contract is awarded. A response resulting in an award may be considered public information even though parts are marked confidential.

In the event Comptroller receives a request for portions of a proposal marked as "CONFIDENTIAL" as specified above, Comptroller shall forward such request to the office of the Texas Attorney General for an opinion on whether such information may be withheld from disclosure under the Texas Public Information Act. Comptroller will notify Respondent whose proposal is the subject of the request when the information is forwarded to the office of the Attorney General. Comptroller assumes no obligation for asserting legal arguments on behalf of Respondent. Respondents are advised that Comptroller is obligated to comply with the decision of the Attorney General, including any such decision calling for the release of information marked "CONFIDENTIAL" by a Respondent.

Copyrighted proposals are unacceptable and are subject to disqualification as non-responsive.

3.10 Media Releases

Comptroller does not endorse any vendor, commodity, or service. Media releases pertaining to this RFP, the Contract, if any, or the Services to which they relate shall not be made without the prior written consent of Comptroller and then only in accordance with explicit written instructions from Comptroller. The disclosure of the contents of proposals prior to the award of the Contract, if any, or any other violation of this section, may result in disqualification.

3.11 Respondent's Understanding of the RFP

By submitting a signed proposal, a Respondent represents that it fully understands this RFP and shall abide by its terms and conditions. No exceptions, amendments, or deviations from this RFP shall be allowed in any proposals unless an addendum to the RFP is posted to the ESBD prior to the date that responses are due. Unauthorized exceptions, amendments, or deviations in the response may result in disqualification of the proposal.

3.12 Non-exclusivity

This RFP is not exclusive, and Comptroller reserves the right to issue additional solicitations regarding the Services described in this RFP or similar services at any time.

3.13 Incorporation of Exhibits

Exhibits A, B, C, D, E, and F are attached hereto and incorporated as part of this RFP for all purposes.

PART IV PROPOSAL FORMAT

4.1 Introduction

Each original proposal and copy shall contain a cover sheet with the following: "RFP No. 210b for the Clean Energy Incubator Emerging Clean Technology Program for the State Energy Conservation Office (SECO)" and the name and address of Respondent. Proposal pages must be numbered. Each document included in the original proposal and each copy shall be separated from the other documents by a tab sheet. Respondent shall ensure its proposal, and copies are bound to avoid separation of documentation in each original proposal and each copy.

Proposals must be organized as described in Section 4.2 below. Proposals not organized in this manner may be subject to disqualification. Conciseness and clarity of content are required; vague and general proposals may be considered non-responsive and may result in disqualification. Proposals must be complete; failure to provide all required information may result in the disqualification of the proposal.

ALL EXHIBITS TO THIS RFP ARE PREPARED EXCLUSIVELY FOR RFP NO. 210b. RESPONDENT'S SUBMISSION OF OTHER EXHIBITS OR DOCUMENTS, INCLUDING PRIOR RFP EXHIBITS, MAY RESULT IN DISQUALIFICATION OF THE PROPOSAL.

4.2 General Organization of Proposal Contents

Proposals must be organized as follows:

- a) Transmittal Letter;
- b) Executive Summary;
- c) Table of Contents;
- d) Business Plan, including:
 - i. Layperson's Summary;

- ii. Project Work Plan;
- iii. Cost Proposal; and
- iv. Organizational Chart;
- e) Respondent Identifying Information;
- f) Proposed Subcontractor(s) Identifying Information;
- g) Respondent Qualifications and Experience;
- h) Statement of Eligibility;
- i) Proposed Personnel;
- j) Execution of Proposal;
- k) Historically Underutilized Businesses Subcontracting Plan;
- l) Criminal Conviction Certification;
- m) Nondisclosure Agreement; and
- n) Conflict of Interest Statement

A description of the information required for each of the items listed above is set forth below.

4.2.A Transmittal Letter

Respondent must submit a transmittal letter that identifies the entity submitting the proposal and includes a commitment by that entity to provide the Services required by Comptroller. **The transmittal letter must state that the proposal is valid for one hundred twenty (120) days from the deadline for delivery of proposals to Comptroller. Any proposal containing a term of less than one hundred twenty (120) days for acceptance from this deadline will be rejected as non-responsive.**

The transmittal letter must be signed by a person legally authorized to bind Respondent. Respondent also must indicate in its transmittal letter why it believes it is the most qualified to provide the requisite Services and why it believes its proposed services best meet Comptroller's objectives and RFP requirements.

The transmittal letter must include a statement of acceptance of the terms and conditions of the contract as set forth in the Sample Contract located in Exhibit A to the RFP. If a Respondent takes exception to any of the proposed terms and conditions stated in the Sample Contract or this RFP, then the exception(s) must be specifically and clearly identified in the transmittal letter and an explanation of the requested change along with the proposed alternative language must also be included in the transmittal letter. However, failure to accept those terms and conditions may result in disqualification of the proposal.

4.2.B Executive Summary

Respondent must provide an executive summary of its proposal and a representation that the proposal addresses all of the requirements of this RFP. The executive summary must not exceed three (3) pages, and must represent a full and concise summary of the contents of the proposal. Respondent must identify any Services that are provided beyond those specifically requested. If Respondent is providing Services that do not meet the specific requirements of this RFP but in the opinion of Respondent are equivalent or superior to those specifically requested, any such differences must be noted in the executive summary. However, failure to provide the Services specifically required may result in disqualification of the proposal.

4.2.C Table of Contents

Each proposal must be submitted with a table of contents that clearly identifies and denotes by page number each section of the proposal and the location of all enclosures of the proposal. The table of contents must follow the RFP's structure as much as possible.

4.2.D Business Plan

4.2.D.i Layperson's Summary

Respondent must provide a summary of the proposal for a lay audience using clear, nontechnical terms. The summary must include the projected benefits to the State of Texas and to the region. The Layperson's Summary must not include any information concerning the cost of the proposal and it must not exceed five (5) pages in length.

4.2.D.ii Project Work Plan

Respondent must provide a Project Work Plan that contains, at a minimum, a detailed description of the following elements:

- 1) CEI Program Objectives;
- 2) Internal Structure and Controls of the Incubator, including:
 - Management and coordination of work teams;
 - Productivity; and
 - Incubator Economic Sustainability;
- 3) Member Company Support of the Incubator, including:
 - Member Company Support Services;
 - Member Company Economic Sustainability;
 - Duration of Support;
 - Deal Flow – Acceptance into Incubator;
 - Deal Flow – Access to Investment Capital;
 - How success will be quantitatively measured, including:
 - Member Companies; and
 - Graduated Companies;
- 4) Marketing and Ecosystem Development, including:
 - External Interactions / Partnerships;
 - Events / Speaking Engagements;
 - Workshops;
 - Collaborations, including:
 - University;
 - Institutional;
 - Local Community; and
 - Investors;
 - How success will be quantitatively measured, including:
 - Ecosystem Development; and
 - Collaborations;
- 5) Region and State of Texas Benefits;

- 6) Risks, including those that may impact incubator operations and/or ability to support member companies; and
- 7) Mitigation Strategies.

4.2.D.iii Cost Proposal

Respondents must provide an inclusive, comprehensive, and complete cost proposal with. This cost proposal should include the following items: direct materials, materials overhead, direct labor and labor rates, labor overhead, equipment, travel, other direct costs, subcontractors/consultants, and general and administrative expenses.

All cost proposals must include all costs and expenses; no additional amounts or reimbursements for travel, expenses, or additional costs of any kind will be added to the Contract after signature. All subcontractor and subcontract costs should be included to the extent practicable. **The anticipated available funding is Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00). It is anticipated at this time that an individual contract budget shall not exceed Two Hundred Thousand and No/100 Dollars (\$200,000.00), including all costs and expenses, if a contract is awarded under the terms of this RFP; Comptroller shall pay no other amounts. All Respondents must submit a cost proposal in the format suggested in the charts included as Exhibit G of this RFP. Cost proposals will be evaluated according to the criteria and weights for evaluation as set forth in Section 5.2 of this RFP.**

NOTE: A twenty (20%) percent minimum match is required.

4.2.D.iv Organizational Chart

Respondent must provide an organizational chart indicating lines of authority, names, titles, and functions of individuals responsible for the services provided in connection with the research project

4.2.E Statement of Eligibility

In order to be eligible for funding under this RFP, Respondent must be a Texas public university seeking to initiate a new CEI or expand an existing CEI. Teaming arrangements between Texas public universities are encouraged when necessary to meet project goals.

Letters of interest or commitment from each identified team member should be included with the proposal. In situations where a team proposal will be submitted, the primary contractor of the team shall be identified and shall be responsible for maintaining continuous correspondence with SECO and ensuring all deliverables applicable to the contract are provided to SECO according to an approved timeline.

Incubator company technologies must be commercially available, or nearly so, and not require any further Research and Development (R&D). Eligible technologies include systems or components of systems that generate power from renewable resources as well as those energy efficient technologies in the power generation, energy storage, transportation, industrial, or building sectors that use alternative fuels or reduce the consumption of fossil fuels and provide environmental benefits.

All Respondents submitting a proposal in response to this RFP should be able to answer ‘yes’ to the following questions:

- 1) Are the products or services from incubator companies commercially available or in a near commercial stage of development, requiring no additional research and development activities?
- 2) Will the incubator company technologies that products or services are based on be a full system or component of a system that:

- a. Generates power from a renewable resource? **OR**
 - b. Is an energy efficient power generation or energy storage technology that uses an alternative fuel or reduces the consumption of fossil fuels and provides environmental benefits? **OR**
 - c. Is the proposed technology an energy efficient transportation technology that uses an alternative fuel or reduces the consumption of fossil fuels and provides environmental benefits? **OR**
 - d. Is the proposed technology an energy efficient industrial technology that uses an alternative fuel or reduces the consumption of fossil fuels and provides environmental benefits? **OR**
 - e. Is the proposed technology an energy efficient building technology that uses an alternative fuel or reduces the consumption of fossil fuels and provides environmental benefits?
- 3) Does the proposal submitted by the higher education institution provide a match at least twenty (20%) percent of the total cost of the project to be funded with the requested SECO funds?

In its proposal, Respondent should include a statement describing how meets the eligibility requirements set forth in this Section.

4.2.F Respondent Identifying Information

Respondents must provide the following identifying information:

- name of the Texas public university submitting the proposal and name and address information of the section/branch within Texas public university to perform the Services;
- official website of section/branch within Texas public university to perform the Services and relevant links;
- Respondent's Federal Employer Identification Number ("FEIN" or "EIN") and Texas Tax Identification/Registration Number, if any;
- name, address, business and cell phone number, email address, and fax number of principal contact person;
- name, address, business and cell phone number, email address, and fax number of project director;
- indicate whether Respondent is currently a party to litigation in progress pertaining to the Services requested in this RFP; if so, identify the parties, jurisdiction, case number, and subject matter; and
- full name and contact information for each employee of Respondent (and any subcontractors) who will perform any services in connection with a Contract awarded under this RFP.

4.2.G Proposed Subcontractor(s) Identifying Information

The proposal must identify any subcontractors and outline the contractual relationship between Respondent and each proposed subcontractor. Respondent must provide statements for each of its proposed subcontractors signed by an individual authorized to legally obligate each subcontractor and attesting to the fact that it will provide the Services as represented in Respondent's proposal. Proposed subcontractors may be required to submit ownership information similar to that required of Respondents in the Section above. Respondent must disclose, at Comptroller's request, any information regarding proposed subcontractors.

4.2.H Respondent Qualifications and Experience

1. Experience

Respondent must include a detailed overview of Respondent's experience providing the requisite services in its proposal. Respondent must demonstrate its knowledge of and experience with activities relevant to the services requested by this RFP. Respondent must provide a profile that describes:

- (1) the general nature of previous similar work performed by Respondent, particularly work in the last three (3) years;
- (2) for each proposed subcontractor:
 - a) the size and scope of all operations, including number of employees and years in business;

- b) the general nature of previous similar work performed, particularly work in the last three (3) years;
 - c) depth and length of experience with Texas government entities; and
- (3) any other information Respondent believes is pertinent to this RFP.

2. Cancellations or Terminations

Respondent must list **all** contracts or purchase orders that Respondent executed or accepted within the last three (3) years and which were canceled or terminated prior to completion by any state agency or other entity with which Respondent contracted. For each such contract or purchase order, Respondent must include a detailed explanation for the cancellation or termination and final resolution of the matter as well as the names and telephone numbers of each such agency's or firm's contact person. If none, specify none.

3. References

In its proposal, Respondent must include a list of at least three (3) clients, other than Comptroller, for which Respondent has provided services during the last three years on projects of a similar nature as those requested by this RFP that typify Respondent's qualifications. For each project, Respondent should include the following information:

- client name;
- client contact person, address, and telephone number;
- complete description of the work performed and deliverables provided; and
- accurate description of the cost of the work performed (if for a public entity), including whether payment was fixed-fee, hourly fee, or some other method of compensation.

4.2.I Proposed Personnel

The proposal must identify all key personnel who are to be part of the proposed team and detail their experience. Respondent must include in the proposal resumes of all management, supervisory, and key personnel that will be involved in performing the Services, and must provide for each person:

- a full name (including full middle name);
- a five (5) year employment history;
- a specific description of relevant experience and skills that person has with this type of services, that must include at least three (3) years of experience performing work similar to the required Services (limit to one page);
- a specific indication of what role the individual will have in this project, and
- any additional pertinent information to indicate the individual's ability to aid Respondent in successfully completing the required Services (limit to one page).

Resumes must present the required personnel information in sufficient detail to provide Comptroller with a convincing indication that the personnel involved can successfully provide the required Services. The key personnel, as identified in the proposal, are considered to be essential to the Services. Comptroller reserves the right, in its sole discretion, to approve each member of the team and to request substitutions. All replacements of personnel must be of equal or superior experience or skill as the person replaced.

4.2.J Execution of Proposal

Exhibit B must be completed and signed by Respondent.

4.2.K Historically Underutilized Businesses Subcontracting Plan

The State of Texas and Comptroller are committed to assisting Historically Underutilized Businesses (HUBs) through the procurement process. In accordance with Sections 2161.181 and 2161.182, Texas Government Code, each state agency shall make a good faith effort to increase the contract awards for the purchase of goods or services to HUBs based on rules adopted to implement the disparity study described by Section 2161.002(c), Texas Government Code. In accordance with Section 2161.252, Texas Government Code and 34 Texas Administrative Code §20.14, each state agency (including institutions of higher education) as defined by Section 2151.002, Texas Government Code that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. If subcontracting opportunities are probable, each state agency's invitation for bids or other purchase solicitation documents for construction, professional services, other services, and commodities with an expected value of \$100,000 or more shall state that probability and require a HUB Subcontracting Plan (HSP) and supporting documentation.

The HUB goals per 34 Texas Administrative Code §20.13 are: 11.2% for heavy construction other than building contracts; 21.1% for all building construction, including general contractors and operative builders contracts; 32.7% for all special trade construction contracts; 23.6% for professional services contracts; 24.6% for all other services contracts; and 21% for commodities contracts.

Comptroller has determined that this procurement falls under the following category:

Special Trade Construction ___ Professional Services ___ Other Services X Commodities ___

Comptroller has determined that HUB subcontracting opportunities are probable. Therefore, Comptroller identifies the list of HUB vendors located at: <http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/> as a list of vendors from the centralized master bidders list ("CMBL") that may perform the subcontract opportunities. The class and item codes for this RFP are as follows: **Class 924, Item 19; and Class 961, Items 28, 31, and 44.**

Respondent must carefully review, complete and return all HUB forms as required in Exhibit C.

4.2.L Criminal Conviction Certification

Exhibit D must be completed and signed by Respondent.

4.2.M Nondisclosure Agreement

Exhibit E must be completed and signed by Respondent.

4.2.N Conflict of Interest Statement

The Conflict of Interest Statement must be prepared, signed by Respondent, and returned with the proposal as Exhibit F.

In its proposal, a Respondent must represent and warrant to Comptroller that it and each of its subcontractors have the requisite resources, qualifications, and independence to conduct the Services free from outside direction, control, or influence, and subject only to the accomplishment of Comptroller's objectives. Respondents that cannot make this representation and warranty should not respond to this RFP.

Respondent must disclose any existing or potential conflicts of interest or possible issues that might create appearances of impropriety relative to the submission of a proposal from Respondent and its possible selection as Successful Respondent, or its performance or the performance of its proposed subcontractor(s) of the Contract.

As part of this disclosure requirement, each Respondent must include in its proposal all past and present contractual, business, financial or personal relationships between Respondent and Comptroller and between Respondent's proposed subcontractors, if any, and Comptroller. For purposes of this disclosure requirement, (i) "past" is defined as within the two (2) calendar years prior to the deadline for submission of proposals in response to this RFP; (ii) "Comptroller" is defined as the statewide elected official who heads the agency as well as the agency's employees or recent former employees; and (iii) "recent former employees" are defined as those Comptroller employees who have terminated agency employment within the two (2) calendar years prior to the deadline for submission of proposals in response to this RFP. For each item, Respondent must provide a detailed explanation of why Respondent does or does not believe such item poses a conflict of interest, potential conflict of interest, or appearance of impropriety issue relative to Respondent's submission of a proposal, possible selection as Successful Respondent or its performance of the Contract.

For purposes of this RFP, "personal relationship" is defined as a current or past connection other than a clearly contractual, business, financial, or similar relationship and includes family relationships or other connections outside simply providing a response to this RFP. For this purpose, "family relationship" means a relationship within the third degree of consanguinity or second degree of affinity (see Chapter 573 of the Texas Government Code) which defines these degrees of consanguinity and affinity. Connections other than such family relationships fall within this definition and must be disclosed if a reasonable person could expect the connection to diminish Respondent's independence of judgment or effectiveness in the performance of Respondent's responsibilities to Comptroller or the State under the Contract. Connections also fall within this definition if a reasonable person could expect the connection, within the overall context of Respondent's submission of a proposal, possible selection as Successful Respondent, or its performance of the Contract, to create an issue for the agency's consideration relative to a potential appearance of impropriety or conflict of interest. Connections also fall within this definition if the relationship is with Comptroller or other State of Texas employee with authority to make decisions or recommendations on state contracting or procurement or this RFP. For purposes of this provision, those persons with authority to make decisions or recommendations are those persons who fall within the definition of "purchasing personnel" in Section 2262.004(a)(2) of the Texas Government Code.

In submitting a proposal in response to this RFP, a Respondent affirms that it has not given, nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, in connection with this procurement.

Respondents must disclose any proposed personnel under the contract who are current or recent former employees of Comptroller or the State. Recent former employees are defined above.

Under Section 2252.901 of the Texas Government Code, Comptroller may not enter into a consulting services contract under Chapter 2254 with a former or retired employee of Comptroller before the first anniversary of the last date on which the individual was employed by Comptroller. Also, under Section 2254.033 of the Texas Government Code, an individual who offers to provide consulting services to Comptroller and who has been employed by Comptroller or another agency at any time during the two years preceding submitting the proposal shall disclose in its proposal: (i) the nature of the previous employment with Comptroller or the other agency; (ii) the date the employment was terminated; and (iii) the annual rate of compensation for the employment at the time of its termination. Respondent must include in its proposal any information that is or may be pertinent to that section, as well as information to assist Comptroller in complying with Section 2252.901 of the Texas Government Code.

Disclosures under these provisions are information that will be evaluated by Comptroller. However, all information provided will not necessarily lead to a restriction or disqualification. Issues will be considered on a case-by-case basis in the best interests of the State of Texas. If a Respondent is in doubt about whether information should be disclosed, Respondent should consult its legal counsel. Failure to disclose any required information under these provisions may be cause for proposal disqualification or termination of the contract under this RFP. Comptroller reserves the right, in its sole discretion, to determine if an issue should result in proposal disqualification or termination of the Contract. If circumstances change or additional information is obtained subsequent to submission

of proposals, Respondent's duty to disclose under these provisions continues under the term of the Contract and does not end with submission of a proposal or receipt of Contract award.

PART V

PROPOSAL EVALUATION AND SELECTION

5.1 Evaluation Process

Comptroller shall establish an Evaluation Committee. Copies of those proposals found to be responsive and to be in compliance with this RFP will be distributed to the members of the Evaluation Committee for their review and evaluation. Clarifications on issues raised in the proposals may be sought from individual Respondents. Best and Final Offers may be sought from Respondents whose proposals are ranked most highly by the Evaluation Committee.

Upon the selection of Successful Respondent, if any, Comptroller shall proceed with contract negotiations and attempt to finalize the contract with the apparent Successful Respondent. If a contract cannot be successfully negotiated within a reasonable period of time, negotiations will be terminated, and negotiations with the next highest-ranking Respondent may commence. The process may continue until a contract is signed or the RFP is withdrawn. However, Comptroller may at any time, upon failure of negotiations, choose to reissue or withdraw the RFP rather than continue with negotiations.

As soon as possible after the execution of a written contract with Successful Respondent, all other Respondents shall be provided with formal notification.

5.2 Selection Criteria

Only those proposals that meet the minimum qualifications shall be evaluated and scored. The evaluation criteria and relative weights for this RFP are set forth below.

1) Internal Structure and Controls (25%)

- Has Respondent's Executive Director, who is responsible for running the day-to-day operations of the CEI, been identified? Are sufficient details provided about the individual's background, credentials, and experience?
- Does Respondent's project team have the relevant and necessary background and experience working with business startups?
- Does Respondent's project team have the ability to provide expert business and technical assistance to new companies?
- Are the roles of Respondent's project team, including external team members, clearly defined?
- Does Respondent's project team include a balance of business (such as finance, development, and marketing experience) and technical experience?
- Does Respondent's proposal clearly indicate Respondent's specific role in and relationship to proposed activities?
- Is Respondent's project team experience appropriate for carrying out the project as proposed?

2) Member Company Support (25%)

- How complete is the vetting process provided that describes how new member companies are screened for entry into the incubator?
- What is the approach for the education, advising, and mentoring of member companies?
- Are there adequate facilities that will contribute to the success of the member companies?
- What kind of infrastructure is proposed that will enable member companies to gain access to high quality investment deals?
- What is the plan for the incubator to "graduate" successful companies as cost-effectively as possible?
- Are the strategies and tasks proposed appropriate to meet the project objectives?

- What are the projected outcomes for the incubator and the member companies?
- Is there a quantifiable process for measuring the success of the incubator, incubator companies, and graduated incubator companies?

3) Marketing and Ecosystem Development (15%)

- Is there a marketing process to reach funding sources, to drive awareness of the incubator's offerings, and to promote sustained deal flow?
- Is this marketing process reasonable?
- Is there recognition of market segment alignment and outlined plans for active alliances with strategic partners?
- Is this a reasonable approach?

4) Program Risks (15%)

- How will the CEI sustain itself after contract completion if no additional funding or reduced funding is available for operations?
- Does the CEI have a strategy to work toward identifying and securing additional funding sources?
- How sound is Respondent's approach to mitigating these risks?

5) Region and State of Texas Benefits (10%)

- How will the economic benefit and an increase in employment to the region for the entire state be measured? Will the semiannual (using state fiscal year calendar) economic fiscal and job development impact analysis utilize IMPLAN, RIMS II, or some other similar analytical tool to measure the incubator benefits to the region and to the State of Texas?
- To what degree will the proposed effort increase markets or adoption of clean energy systems in Texas?
- How substantial are the proposed benefits of project success, both to the respondent and to the State?

6) Cost Proposal (10 %)

- Is the cost proposal for proposed activities and deliverables reasonable?
- Is the cost proposal broken down in sufficient detail to provide a clear understanding of the projected expenses?
- To what degree are State of Texas funds leveraged by Respondent cost sharing?

5.3 Respondent's Past Performance

Comptroller may conduct reference checks with other entities regarding past performance. In addition to evaluating performance through the Vendor Performance Tracking System as authorized by 34 Texas Administrative Code §20.108, Comptroller may examine other sources of vendor performance, including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of contracts. Such sources of vendor performance may include any governmental entity, whether an agency or political subdivision of the State of Texas, another state, or the Federal government. Further, Comptroller may initiate such examinations of vendor performance based upon media reports. Any such investigations shall be at the sole discretion of Comptroller, and any negative findings, as determined by Comptroller, may result in a non-award to Respondent. The Vendor Performance Tracking System information is located on Comptroller's website at: http://www.window.state.tx.us/procurement/prog/vendor_performance/.

5.4 Protest Procedures

Respondents must use the protest procedures adopted by Comptroller at 34 Texas Administrative Code §1.72 in the event of a protest.

EXHIBIT A
SAMPLE CONTRACT

STATE OF TEXAS

STATE ENERGY CONSERVATION OFFICE

COUNTY OF TRAVIS

AGREEMENT

**INTERAGENCY AGREEMENT
FOR THE
CLEAN ENERGY INCUBATOR
EMERGING CLEAN TECHNOLOGY PROGRAM**

This interagency agreement ("Agreement") is entered into by and between the Texas Comptroller of Public Accounts ("Comptroller"), State Energy Conservation Office ("SECO") and _____ ("University") located at _____.

I. Recitals

Whereas, on June 13, 2014, Comptroller issued a Request for Proposals No. 210b for Texas public universities to create or expand Clean Energy Incubators ("CEIs") to help clean energy companies grow and develop new markets for clean technologies;

Whereas, University submitted a proposal on or before July 11, 2014, in response to Comptroller's RFP ("Proposal");

Whereas, University was selected as a Successful Respondent;

Whereas, under this Agreement, University shall fully comply with all terms, conditions, requirements and other provisions of this Contract, including those set forth in the Attachments attached hereto and incorporated herein for all purposes; and

Whereas, in consideration of University's compliance with all requirements of this Contract, Comptroller awards this Contract to the University.

Now, therefore, the parties hereby agree as follows:

II. Authority

This Agreement is entered into pursuant to the legal authority granted in Chapter 403, Section 403.11; Chapter 447, Section 447.006; Chapter 2305, Section 2305.037; Chapter 2156, Section 2156.121; and Chapter 771 of the Texas Government Code. Funding for this program is provided by Federal funds approved by the United States Department of Energy ("DOE").

III. Services

University shall provide to Comptroller all of the services and deliverables described in and in the manner required by this Agreement all of the following documents ("Services") as attached hereto and incorporated as part of this Agreement for all purposes. All terms and conditions of Comptroller's RFP shall apply.

<u>Attachment A:</u>	Statement of Services to be Performed;
<u>Attachment B:</u>	Budget;
<u>Attachment C-1:</u>	Assurance of Compliance, Nondiscrimination in State Assisted Programs;

<u>Attachment C-2:</u>	Assurance of Compliance, Nondiscrimination in State Assisted Programs;
<u>Attachment D:</u>	Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions;
<u>Attachment E:</u>	Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements;
<u>Attachment F:</u>	Disclosure of Lobbying Activities;
<u>Attachment G:</u>	Assurances – Non-Construction Programs;
<u>Attachment H:</u>	Intellectual Property Provisions;
<u>Attachment I:</u>	Subcontracting Provisions; Mandatory Flowdown Provision;
<u>Attachment J:</u>	Comptroller’s RFP;
<u>Attachment K:</u>	HUB Subcontracting Plan;
<u>Attachment L:</u>	University’s Proposal; and
<u>Attachment M:</u>	Confidential Treatment of Information Acknowledgement

In the event of a conflict, the documents shall control in the following order of precedence:

1. This Agreement, excluding Attachments;
2. Attachments A and B;
3. Attachments C-1 through H;
4. Attachment I;
5. Attachment J;
6. Attachment K;
7. Attachment L; and
8. Attachment M

University’s performance under this Agreement is limited to the requirements set forth in this Agreement, including services reasonably related to satisfying those requirements.

University represents and warrants that it has the requisite qualifications, experience, personnel and other resources to provide all of the required Services to Comptroller in the manner required by this Agreement. Comptroller shall look solely to University for performance of this Agreement. University shall provide the services under the direction of Comptroller. University shall be the sole point of Contract responsibility. University shall be liable, both individually and severally, for the performance of all obligations under this Contract, and shall not be relieved of the non-performance of any subcontractor.

IV. Payments

Total payments to University under this Agreement shall not exceed **DOLLARS AND** **CENTS** (\$, .). University’s payments under this Agreement are limited to reimbursements of actual authorized costs incurred pursuant to the budget provided in Attachment B. No other amounts shall be paid. Each month, University shall submit to Comptroller each request for payment by submitting a detailed invoice to Comptroller, listing expenses by budget categories. University shall submit invoices that are fully supported by receipts and such other documentation. Comptroller reserves the right, in its sole discretion, to withhold payment of invoices for which University does not submit documentation acceptable to Comptroller. University shall submit monthly invoices for equipment purchased, services performed and costs incurred in the prior month.

Comptroller reserves the right, in its sole discretion, to authorize revisions to budgeted amounts to provide for flexibility within budget categories. Comptroller must give prior approval of all such revisions through its execution of a written amendment to this Agreement. University may submit a request for reimbursement after contract termination provided the eligible expenses were incurred during the term of the Agreement.

V. Term

The term of this Agreement shall begin on the date executed by Comptroller, after having first been signed by University, and shall be effective until August 31, 2015 ("Termination Date") unless terminated earlier in accordance with other provisions of this Agreement. Comptroller, in its sole discretion, may exercise the option to extend this Agreement for up to two (2) additional one-year terms, one (1) year at a time. Notwithstanding the termination or expiration of this Agreement, the provisions of this Agreement regarding confidentiality, indemnification, payments, records, and dispute resolution shall survive the termination or expiration dates of this Contract.

VI. Termination

Comptroller reserves the right, in its sole discretion, to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to University.

Upon receipt of notice of termination from Comptroller, University shall immediately cease to submit monthly statements or requests for reimbursement and shall cancel, withdraw or otherwise terminate any outstanding orders or commitments under this Agreement as of the effective date of such termination and shall otherwise cease to incur any costs. University cannot incur new costs after termination but can seek reimbursement for eligible costs incurred during the Agreement term. Comptroller shall have no liability whatsoever for any costs incurred after such termination date. Upon termination for a breach of this Agreement or failure to comply with the terms of this Agreement, University may be required to return any or all grant funds to Comptroller.

VII. Records Retention, Right to Audit, and Monitoring

A. Retention of Records. University shall maintain and retain fiscal records and supporting documentation for all expenditures related to this Agreement at its principal office adequate to ensure that claims for grant funds are in accordance with applicable Comptroller and State of Texas requirements. University shall maintain all such documents and other records relating to this Agreement for a period of four (4) years after the date of submission of the final invoice or until a resolution of all billing questions, whichever is later.

B. Access to Records. University shall give DOE, the Inspector General, the General Accounting Office, the Auditor of the State of Texas, Comptroller, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things or property belonging to or in use by University pertaining to this Agreement. Such rights to access shall continue as long as the records are retained by University. University shall cooperate with auditors and other authorized representatives of Comptroller and the State of Texas and shall provide them with prompt access to all such property as requested by Comptroller or the State of Texas. By example and not as exclusion to other breaches or failures, the University's failure to comply with this Section shall constitute a material breach of this Agreement and shall authorize Comptroller to immediately terminate this Agreement. University agrees to maintain such records in an accessible location and to provide citizens reasonable access to such records consistent with the Texas Public Information Act, Chapter 552 of the Texas Government Code.

C. Right to Audit. Comptroller may require, at University's sole cost and expense, independent audits by a qualified certified public accounting firm of University's books and records or the State's property. The independent auditor shall provide Comptroller with a copy of such audit at the same time it is provided to University. Comptroller retains the right to issue a request for proposals for the services of an independent certified public accounting firm under this Agreement. In addition to and without limitation on the other audit provisions of this Agreement, pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of University or any other entity or person receiving funds from the state directly under this Agreement or indirectly through a subcontract under this Agreement. The acceptance of funds by University or any other entity or person directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or

investigation in connection with those funds. Under the direction of the legislative audit committee, University or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. This Agreement may be amended unilaterally by Comptroller to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code. University shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors or sub-contractors through the University and the requirement to cooperate is included in any subcontract it awards. The state auditor shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of the University relating to this Agreement.

D. Monitoring. Comptroller may also carry out monitoring and evaluation activities to ensure University's compliance with the programs that are the subject of this Agreement and to make available copies of all financial audits and related management letters of University and any subcontractors as required under any applicable federal or state law or guidelines.

VIII. Indemnification

TO THE EXTENT PERMITTED BY THE CONSTITUTION AND THE LAWS OF THE STATE OF TEXAS, UNIVERSITY SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND COMPTROLLER, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF UNIVERSITY OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THIS CONTRACT. THE DEFENSE SHALL BE COORDINATED BY UNIVERSITY WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND UNIVERSITY MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. UNIVERSITY AND COMPTROLLER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

IX. Subcontracting

University may subcontract or sub-grant for the purposes of this Agreement as specifically authorized by Comptroller pursuant to the terms and subject to compliance with the flow down provisions of Attachment I of this Agreement.

X. Amendments

This Agreement may only be amended upon the written agreement of the parties by executing an amendment to this Agreement; however, Comptroller may unilaterally amend this Agreement as provided in Section XVIII.

XI. Notice

Any notice relating to this Agreement, which is required or permitted to be given under this Agreement by one party to the other party shall be in writing and shall be addressed to the receiving party at the address specified below. The notice shall be deemed to have been given immediately if delivered in person to the recipient's address specified below. It shall be deemed to have been given on the date of certified receipt if placed in the United States mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the receiving party at the address specified below. Registered or certified mail with return receipt is not required for copies.

Comptroller: Texas Comptroller of Public Accounts
State Energy Conservation Office
111 E. 17th Street
Austin, Texas 78774

University: [University Name]
[Address]

XII. Funding

Comptroller's performance of its obligations under this Agreement is contingent upon and subject to availability of and actual receipt by Comptroller of sufficient and adequate funds from the sources contemplated by this Agreement. This Agreement is subject to immediate cancellation or termination, without penalty to Comptroller, subject to the availability and receipt of these funds. In addition, Comptroller's authority and appropriations are subject to the actions of the Texas Legislature. If Comptroller becomes subject to a legislative change, revocation of statutory authority or lack of funds that would render the services to be provided under this Agreement impossible or unnecessary, Comptroller may terminate this Agreement without penalty to Comptroller or the State of Texas. In the event of a termination or cancellation under this Section, Comptroller shall not be required to give notice and not be liable for damages or losses caused or associated with such termination or cancellation.

XIII. Insurance

University has and will maintain in force during the term of this Agreement an adequate program of self-insurance to cover its indemnification obligations under this Agreement. As an agency of the State of Texas, University will address issues of general liability in accordance with the Texas Civil Practice and Remedies Code, Chapter 101 (the Texas Tort Claims Act) and Chapter 104 (State Liability for Conduct of Public Servants). University will maintain Workers' Compensation insurance in the amounts required by state and federal law.

XIV. Assignment

University shall not transfer or assign any rights or duties under or any interest in this Agreement. University shall not delegate its responsibilities or duties under the terms of this Agreement.

XV. Property Rights

For the purposes of this Agreement, the term "Work" is defined as all reports, work papers, work products, materials, approaches, designs, specification, systems, documentation, methodologies, concepts, intellectual property or other property developed, produced or generated in connection with the services provided under this Agreement. University owns and will continue to own all right, title and interest and all proprietary rights in and to the Work and any and all documentation or other products and results of the services rendered by University, including all trade secret, copyright, patent, trademark, and other proprietary rights.

University hereby grants Comptroller a perpetual, royalty-free, nonexclusive, irrevocable, transferable, worldwide license for governmental purposes to use, reproduce, distribute, display, and perform the Work and to prepare derivative works based thereon. Additionally, upon delivery of the Work to Comptroller, and upon full payment to University hereunder by Comptroller for such Work, Comptroller shall be deemed to have paid all non-commercial license, support, maintenance, subscription, and other fees of any kind, and University understands and agrees to this provision.

In the event that either party intends to use, reproduce, display, or perform such Work for commercial purposes, the parties agree in good faith to negotiate the applicable license.

No later than the first calendar day after the termination or expiration of this Agreement or at Comptroller's request, University shall deliver to Comptroller all completed, or partially completed, Work and any and all documentation or other products and results of these services. Failure to timely deliver such Work and any and all documentation or other products and results of services shall be considered a material breach of this Agreement.

In the event of any conflicting provisions between this Section and Attachment H, Attachment H shall control.

Title to and control over equipment or license of any software so purchased for University's performance under this Agreement shall remain with University so long as it is being used for the purpose for which it was intended under the terms of this Agreement.

XVI. Severability Clause

In the event that any provision of this Agreement is later determined to be invalid, void, or unenforceable, then the remaining provisions of this Agreement shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

XVII. Dispute Resolution Process

Chapter 2260 of the Texas Government Code ("Chapter 2260") prescribes dispute resolution processes for certain breach of contract claims applicable to certain contracts for goods and services. As required by Chapter 2260, Comptroller has adopted rules under Chapter 2260, codified at 34 Texas Administrative Code §§1.360 – 1.387, and may adopt revisions to these rules throughout the term of this Agreement, including any extensions. University shall comply with such rules.

The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by Comptroller and University to attempt to resolve any claim for breach of contract made by University under this Agreement:

- (A) University's claim for breach of this Agreement that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, University shall submit written notice, as required by Chapter 2260, to the Deputy Comptroller or his or her designee. Said notice shall also be given to all other representatives of Comptroller and University otherwise entitled to notice under this Agreement. Compliance by University with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.
- (B) The contested case process provided in Chapter 2260 is University's sole and exclusive process for seeking a remedy for an alleged breach of contract by Comptroller if the parties are unable to resolve their disputes under subparagraph (A) of this Section.
- (C) Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107, Civil Practice and Remedies Code. Neither the execution of this Agreement by Comptroller nor any other conduct of any representative of Comptroller relating to this Agreement shall be considered a waiver of sovereign immunity to suit.

For all other specific breach of contract claims or disputes under this Agreement, the following shall apply:

Should a dispute arise out of this Agreement, Comptroller and University shall first attempt to resolve it through direct discussions in a spirit of mutual cooperation. If the parties' attempts to resolve their disagreements through negotiations fail, the dispute will be mediated by a mutually acceptable third party to be chosen by Comptroller and University within fifteen (15) days after written notice by one of them

demanding mediation under this Section. University and Comptroller shall pay all costs of the mediation equally. By mutual agreement, Comptroller and University may use a non-binding form of dispute resolution other than mediation. The purpose of this Section is to reasonably ensure that Comptroller and University shall in good faith utilize mediation or another non-binding dispute resolution process before pursuing litigation. Comptroller's participation in or the results of any mediation or another non-binding dispute resolution process under this Section or the provisions of this Section shall not be construed as a waiver by Comptroller of: (1) any rights, privileges, defenses, remedies or immunities available to Comptroller as an agency of the State of Texas or otherwise available to Comptroller; (2) Comptroller's termination rights; or (3) other termination provisions or expiration dates of this Agreement.

XVIII. Applicable Law and Conforming Amendments

University shall comply with all state and federal laws, regulations, requirements and guidelines applicable to a University providing services to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Agreement. Comptroller reserves the right, in its sole discretion, to unilaterally amend this Agreement prior to award and throughout the term of this Agreement to incorporate any modifications necessary for Comptroller's or University's compliance with all applicable state and federal laws, regulations, requirements and guidelines. Other than this provision, this Agreement may only be amended by the written agreement of the parties.

XIX. Additional Provisions

19.1 Time Limits

Time is of the essence in the performance of this Agreement and accordingly all time limits shall be strictly construed and rigidly enforced.

19.2 No Waiver

This Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Comptroller or otherwise available to Comptroller or University. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies, or immunities available to Comptroller or University under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. Comptroller or University do not waive any privileges, rights, defenses, or immunities available to them by entering into this Agreement or by their conduct prior to or subsequent to entering into this Agreement. **The modification of any privileges, rights, defenses, remedies, or immunities available to Comptroller or University must be in writing, must reference this Section, and must be signed by Comptroller and University to be effective, and such modification of any privileges, rights, defenses, remedies, or immunities available to Comptroller shall not constitute waiver of any subsequent privileges, rights, defenses, remedies, or immunities under this Agreement or under applicable law.**

19.3 No Liability upon Termination

If this Agreement is terminated for any reason, Comptroller and the State of Texas shall not be liable for any damages, claims, losses, expenses, costs or any other amounts arising from or related to any such termination.

19.4 Limitation on Authority; No Other Obligations

University shall have no authority to act for or on behalf of Comptroller or the State of Texas except as expressly provided for in this Agreement; no other authority, power, use, or joint enterprise is granted or implied. University may not incur any debts, obligations, expenses or liabilities of any kind on behalf of Comptroller.

19.5 No Other Benefits

University shall have no exclusive rights or benefits other than those set forth herein.

19.6 Force Majeure

Except as otherwise provided, neither University nor Comptroller shall be liable to the other for any delay in, or failure of performance, of any requirement contained in this Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, terrorist attacks, fires, explosions, earthquakes, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within three (3) business days of the existence of such force majeure or otherwise waive this right as a defense.

19.7 Debts or Delinquencies to State

University acknowledges and agrees that, to the extent University owes any debt or delinquent taxes to the State of Texas, any payments or other amounts University is otherwise owed under or related to this Agreement may be applied by the Comptroller of Public Accounts toward any debt or delinquent taxes University owes the State of Texas until the debt or delinquent taxes are paid in full. These provisions are effective at any time University owes any such debt or delinquency. University shall comply with rules adopted by the Comptroller under Sections 403.055, 403.0551, and 2252.903 of the Texas Government Code, and other applicable laws and regulations regarding satisfaction of debts or delinquencies to the State of Texas.

Furthermore, University acknowledges and agrees that any obligation to refund or return grant funds based on termination or breach of this Agreement entered into by University and Comptroller creates “a debt to the state” for purposes of Section 403.055 of the Texas Government Code. University further acknowledges and agrees that the terms of this Agreement are sufficient to create a debt by agreement between the University and Comptroller. Comptroller agrees that it shall provide University the opportunity to contest the amount due or the existence of a breach through an internal administrative review process which shall be determined by Comptroller. Applicant’s failure to return any amount owed upon conclusion of Comptroller’s administrative review process shall allow Comptroller to use the warrant-hold process under Section 403.055 of the Texas Government Code as a means of enforcing University’s compliance with the terms of the Grant Agreement or to recover grant funds required to be returned by University under the terms of this Agreement.

If University is a “local government entity” as defined under Section 271.151 of the Texas Local Government Code, University acknowledges and agrees that this Agreement is a written contract stating the essential terms for providing services to University, and therefore, this Agreement is subject to Chapter 271, Subchapter I, of the Local Government Code which waives sovereign immunity for certain breach of contract claims.

19.8 Report of Fraud, Waste and Abuse; Texas Government Code, Section 321.022

If the administrative head of a department or entity that is subject to audit by the Texas State Auditor has reasonable cause to believe that money received from the State by the University or by a client or contractor of the University may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the University, the administrative head shall report the reason and basis for the belief to the Texas State Auditor. The Texas State Auditor may investigate the report or may monitor any investigation conducted by the University. See <http://sao.fraud.state.tx.us/>.

19.9 Actual or Potential Conflicts of Interest Prohibited

University hereby represents and warrants that it and its personnel, including the University's subcontractors, have no actual or potential conflicts of interest in performing this Agreement and related activities throughout the term of this Agreement and the performance of this Agreement would not create any appearance of impropriety. This representation, warranty, and certification includes all past (defined as within the two (2) calendar years prior to the deadline for submission of applications) and present contractual, business, financial, or personal relationships between University and its subcontractors, if any, and between the University and Comptroller. For purposes of this provision, "personal relationship" is defined as a current or past connection other than a clearly contractual, business, financial or similar relationship and includes family relationships or other connections. "Family relationship" is defined as a relationship within the third degree of consanguinity or second degree of affinity as set forth in Chapter 573 of the Texas Government Code. The connections are relevant if a reasonable person could expect the connection to diminish the University's independence of judgment or effectiveness in the performance of this Agreement. The University shall at all times comply with the conflict of interest provisions under Chapter 171 of the Local Government Code and Chapter 573 of the Texas Government Code.

19.10 Comptroller's Anti-Fraud Policy

Comptroller's Anti-Fraud Policy. University represents and warrants that it has read and understood and shall comply with Comptroller's Anti-Fraud Policy located on Comptroller's website at <http://www.window.texas.gov/ssv/ethics.html>, as such Policy currently reads and as it is amended throughout the term of this Agreement.

XX. Merger

This Agreement, and its accompanying attachments, contain the entire agreement between the parties relating to the rights granted and the obligations assumed in it. Any oral representations or modifications concerning this Agreement shall be of no force or effect unless contained in a subsequent writing, signed by both parties.

XXI. Signatories

The undersigned signatories represent and warrant that they have full authority to enter into this Agreement on behalf of the respective parties. This Agreement may be executed in one or more counterparts, each of which is an original, and all of which constitute only one agreement between the parties.

Texas Comptroller of Public Accounts

[University]

By: _____

By: _____

Martin A. Hubert
Deputy Comptroller

Name
Title

Date: _____

Date: _____

ATTACHMENT A

DELIVERABLES STATEMENT

- A. University shall perform all of the deliverables described in this Attachment A, or otherwise required by this Agreement. These deliverables include, but are not limited to, the furnishing of all personnel and the procurement of all equipment, supplies, and other items necessary to provide those deliverables in compliance with this Agreement. University shall provide all services in accordance with the Standards of Performance of this Agreement. University shall review and implement Comptroller recommendations, as Comptroller adopts them from time to time, so that the deliverables may be expeditiously and satisfactorily completed. University shall meet with Comptroller at such times as Comptroller may reasonably request to discuss the progress of deliverables and any other matters that may arise in regard to this Agreement.
- B. University shall provide all of the following services:
- 1) Infrastructure and Controls
 - Provide infrastructure, personnel and facilities, to effectively support incubated companies;
 - Implement a process to ensure the CEI can be sustained following the completion of this Agreement;
 - Develop/enhance a task list identifying the activities necessary to grow or expand the CEI;
 - Develop/enhance a list of deliverables associated with each task with proposed milestone assigned to the tasks;
 - Prepare and provide a detailed budget for the project, including any costs and/or sharing of funding, partnering, etc.;
 - Develop/enhance quantifiable process for measuring the success of the incubator companies;
 - Develop/enhance quantifiable process for measuring the success of the incubator; and
 - Develop/enhance quantifiable process for measuring the success of collaborations, when used.
 - 2) Member Company Support
 - Provide strategic and operational counsel to support to enable young clean energy companies to thrive, create jobs, and grow into self-sustaining entrepreneurial companies; and
 - Follow-up with graduated companies to ensure they continue to thrive, create jobs, and grow into self-sustaining entrepreneurial companies.
 - 3) Marketing and Ecosystem Development
 - Drive awareness of the incubator's offerings to angel community, venture capital community, local community, and state.
 - 4) Region and State of Texas Benefits
 - Measure regional and State of Texas economic impact of incubator and incubated companies.
 - 5) Other
 - Provide all other reasonably-related services to the foregoing, as and when requested by Comptroller and SECO; and
 - Prepare required reports.

- C. Comptroller may request additional records, information or reports related to the services hereinafter described and funded by Comptroller pursuant to Attachment B.

At a minimum, the deliverables and milestones identified on in the following chart must be provided by University to Comptroller by the specified due date:

Deliverables and Milestones		Schedule
1.	Business Plan.	October 2014
2.	Task list and implementation schedule. Include list of deliverables associated with each task with proposed milestone payments assigned to the deliverables.	October 2014
3.	Identify cost share and outreach partners.	September 2014 – August 2015
4.	Monthly update of project activities by hard copy and by electronic mail. <ul style="list-style-type: none">• Include list of targets and goals for each incubator task Include the following metrics at a minimum for status report tracking. <ul style="list-style-type: none">• Number of companies reviewed each month• Number of companies incubated each month• Number of companies successfully graduating from incubators• External funding raised by incubator companies• Track the collaboration successes with institutions, industrial companies, the local community, and investors.• Additional metrics to measure successful incubation of companies.	September 2014 – August 2015
5.	Quarterly progress reports (State Fiscal Year Quarters).	September 2014 – August 2015
6.	Prepare semiannual (using state fiscal year calendar) economic fiscal and job development impact analysis (using IMPLAN, RIMS II, or some other similar analytical tool) to measure the incubator benefits to the region and to the State of Texas.	March 2015 – August 2015
7.	Prepare a final report summarizing project cost, incubation results, and lessons learned.	August 2015

ATTACHMENT B

BUDGET

[This will include final agreed Budget, to be negotiated in accordance with terms of the RFP and Sample Contract.]

Personnel¹	\$ 0.00
Subcontract	\$ 0.00
Travel²	\$ 0.00
Airfare, per diem, mileage, and other direct travel expenses	
Total	\$ 0.00
University Provided Match	\$ 0.00

¹ PROJECT MANAGER NAME, shall be Project Director for this project and shall be responsible for the overall supervision and conduct of the project on behalf of University. Any Change of Project Director shall be subject to the prior written approval of Comptroller.

² Out-of-state travel requires prior written approval of Comptroller. All actual, reasonable travel expenses will be reimbursed at state and Comptroller authorized rates.

ATTACHMENT C-1

DOE F 1600.5
(06-94)
All Other Editions Are Obsolete

OMB Control No.
1910-0400

U.S. DEPARTMENT OF ENERGY Assurance of Compliance Nondiscrimination in State Assisted Programs OMB Burden Disclosure Statement

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Office of Information Resources Management Policy, Plans, and Oversight, Records Management Division, HR-422-GTN, Paperwork Reduction Project (1910-0400), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585; and to the Office of Management and Budget (OMB), Paperwork Reduction Project (1910-0400), Washington, DC 20503.

_____(Hereinafter called the "Applicant") HEREBY AGREES to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), Section 16 of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), Section 401 of the Energy Reorganization Act of 1974 (Pub. L. 93-438), Title IX of the Education Amendments of 1972, as amended (Pub. L. 92-318, Pub. L. 93-568, and Pub. L. 94-482), Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), the Age Discrimination Act of 1977 (Pub. L. 94-135), Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), the Department of Energy Organization Act of 1977 (Pub. L. 95-91), the Energy Conservation and Production Act of 1976, as amended, (Pub. L. 94-385) and Title 10 Code of Federal Regulations, Part 1040. In accordance with the above laws and regulations issued pursuant thereto, the Applicant agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity in which the Applicant receives Federal assistance from the Department of Energy.

Applicability and Period of Obligation

In the case of any service, financial aid, covered employment, equipment, property, or structure provided, leased, or improved with Federal assistance funding extended to the Applicant by the Department of Energy, this assurance obligates the Applicant for the period during which the Federal assistance is extended. In the case of any transfer of such service, financial aid, equipment, property, or structure, this assurance obligates the transferee for the period during which Federal assistance is extended. If any personal property is so provided, this assurance obligates the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Applicant for the period during which the Federal assistance is extended to the Applicant by the Department of Energy.

Employment Practices

Where a primary objective of the Federal assistance is to provide employment or where the Applicant's employment practices affect the delivery of services in programs or activities resulting from Federal assistance extended by the Department of Energy, the Applicant agrees not to discriminate on the ground of race, color, national origin, sex, and disability, in its employment practices. Such employment practices may include, but are not limited to, recruitment, advertising, hiring, layoff or termination, promotion, demotion, transfer, rates of pay, training and participation in upward mobility programs, or other forms of compensation and use of facilities.

Subrecipient Assurance

The Applicant shall require any individual, organization, or other entity with which it subcontracts, subgrants, or subleases for the purpose of providing any service, financial aid, equipment, property, or structure to comply with laws cited above. To this end, the subrecipient shall be required to sign a written assurance form; however, the obligation of both recipient and subrecipient to ensure compliance is not relieved by the collection or submission of written assurance forms.

Data Collection and Access to Records

The Applicant agrees to compile and maintain information pertaining to programs or activities developed as a result of the Applicant's receipt of Federal assistance from the Department of Energy. Such information shall include, but is not limited to the following: (1) the manner in which services are or will be provided and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination; (2) the population eligible to be serviced by race, color, national origin, sex, and disability; (3) data regarding covered employment, including use or planned use of bilingual public contact employees serving beneficiaries of the program where necessary to permit effective participation by

beneficiaries unable to speak or understand English; (4) the location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any person on the basis of prohibited discrimination; (5) the present or proposed membership by race, color, national origin, sex, and disability, in any planning or advisory body which is an integral part of the program; and (6) any additional written data determined by the Department of Energy to be relevant to the obligation to assure compliance by recipients with laws cited in the first paragraph of this assurance.

The Applicant agrees to submit requested data to the Department of Energy regarding programs and activities developed by the Applicant from the use of Federal funds extended by the Department of Energy. Facilities of the Applicant (including the physical plants, buildings, or other structures) and all records, books, accounts, and other sources of information pertinent to the Applicant's compliance with the civil rights laws shall be made available for inspection during normal business hours of request of an officer or employee of the Department of Energy specifically authorized to make such inspections. Instructions in this regard will be provided by the Director, Office of Civil Rights, U. S. Department of Energy.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts (excluding procurement contracts), property, discounts or other Federal assistance extended after the date hereto, to the Applicants by the Department of Energy, including installment payments on account after such date of application for Federal assistance which are approved before such date. The Applicant recognizes and agrees that such Federal assistance will be extended in reliance upon the representations and agreements made in this assurance and that the United State shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, as well as the person(s) whose signature appears below and who is authorized to sign this assurance on behalf of the Applicant.

Applicant Certification

The Applicant certifies that it has complied, or that, within 90 days of the date of the grant, it will comply with all applicable requirements of 10 C.F.R. § 1040.5 (a copy will be furnished to the Applicant upon written request to DOE.)

Designated Responsible Employee

Name and Title (Printed or Typed)

Telephone Number

Signature

Date

Name of Organization

Telephone Number

Address

Authorized Official:

Name and Title (Printed or Typed)

Telephone Number

Signature

Date

ATTACHMENT C-2

DOE F 1600.5
(06-94)
All Other Editions Are Obsolete

OMB Control No.
1910-0400

U.S. DEPARTMENT OF ENERGY Assurance of Compliance Nondiscrimination in State Assisted Programs

OMB Burden Disclosure Statement

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Office of Information Resources Management Policy, Plans, and Oversight, Records Management Division, HR-422-GTN, Paperwork Reduction Project (1910-0400), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585; and to the Office of Management and Budget (OMB), Paperwork Reduction Project (1910-0400), Washington, DC 20503.

(Enter name of Borrower's Subcontractor)_____ (Hereinafter called the "Applicant") HEREBY AGREES to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), Section 16 of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), Section 401 of the Energy Reorganization Act of 1974 (Pub. L. 93-438), Title IX of the Education Amendments of 1972, as amended (Pub. L. 92-318, Pub. L. 93-568, and Pub. L. 94-482), Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), the Age Discrimination Act of 1977 (Pub. L. 94-135), Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), the Department of Energy Organization Act of 1977 (Pub. L. 95-91), the Energy Conservation and Production Act of 1976, as amended, (Pub. L. 94-385) and Title 10 Code of Federal Regulations, Part 1040. In accordance with the above laws and regulations issued pursuant thereto, the Applicant agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity in which the Applicant receives Federal assistance from the Department of Energy.

Applicability and Period of Obligation

In the case of any service, financial aid, covered employment, equipment, property, or structure provided, leased, or improved with Federal assistance funding extended to the Applicant by the Department of Energy, this assurance obligates the Applicant for the period during which the Federal assistance is extended. In the case of any transfer of such service, financial aid, equipment, property, or structure, this assurance obligates the transferee for the period during which Federal assistance is extended. If any personal property is so provided, this assurance obligates the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Applicant for the period during which the Federal assistance is extended to the Applicant by the Department of Energy.

Employment Practices

Where a primary objective of the Federal assistance is to provide employment or where the Applicant's employment practices affect the delivery of services in programs or activities resulting from Federal assistance extended by the Department of Energy, the Applicant agrees not to discriminate on the ground of race, color, national origin, sex, and disability, in its employment practices. Such employment practices may include, but are not limited to, recruitment, advertising, hiring, layoff or termination, promotion, demotion, transfer, rates of pay, training and participation in upward mobility programs, or other forms of compensation and use of facilities.

Subrecipient Assurance

The Applicant shall require any individual, organization, or other entity with which it subcontracts, subgrants, or subleases for the purpose of providing any service, financial aid, equipment, property, or structure to comply with laws cited above. To this end, the subrecipient shall be required to sign a written assurance form; however, the obligation of both recipient and subrecipient to ensure compliance is not relieved by the collection or submission of written assurance forms.

Data Collection and Access to Records

The Applicant agrees to compile and maintain information pertaining to programs or activities developed as a result of the Applicant's receipt of Federal assistance from the Department of Energy. Such information shall include, but is not limited to the following: (1) the manner in which services are or will be provided and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination; (2) the population eligible to be serviced by race, color, national origin, sex, and disability; (3) data regarding covered employment, including use or planned use of bilingual public contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand

English; (4) the location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any person on the basis of prohibited discrimination; (5) the present or proposed membership by race, color, national origin, sex, and disability, in any planning or advisory body which is an integral part of the program; and (6) any additional written data determined by the Department of Energy to be relevant to the obligation to assure compliance by recipients with laws cited in the first paragraph of this assurance.

The Applicant agrees to submit requested data to the Department of Energy regarding programs and activities developed by the Applicant from the use of Federal funds extended by the Department of Energy. Facilities of the Applicant (including the physical plants, buildings, or other structures) and all records, books, accounts, and other sources of information pertinent to the Applicant's compliance with the civil rights laws shall be made available for inspection during normal business hours of request of an officer or employee of the Department of Energy specifically authorized to make such inspections. Instructions in this regard will be provided by the Director, Office of Civil Rights, U. S. Department of Energy.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts (excluding procurement contracts), property, discounts or other Federal assistance extended after the date hereto, to the Applicants by the Department of Energy, including installment payments on account after such date of application for Federal assistance which are approved before such date. The Applicant recognizes and agrees that such Federal assistance will be extended in reliance upon the representations and agreements made in this assurance and that the United State shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, as well as the person(s) whose signature appears below and who is authorized to sign this assurance on behalf of the Applicant.

Applicant Certification

The Applicant certifies that it has complied, or that, within 90 days of the date of the grant, it will comply with all applicable requirements of 10 C.F.R. § 1040.5 (a copy will be furnished to the Applicant upon written request to DOE.)

Designated Responsible Employee of Subcontractor

Name and Title (Printed or Typed)

Telephone Number

Signature

Date

Subcontractor:

Name of Organization

Telephone Number

Address

Authorized Official of Subcontractor:

Name and Title (Printed or Typed)

Telephone Number

Signature

Date

ATTACHMENT D
**Certification Regarding Debarment, Suspension, Ineligibility,
and Voluntary Exclusion-Lower Tier Covered Transactions**

Instructions for Certification

1. The prospective lower tier participant is required to sign the attached certification.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this application is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principle," "application," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the person to which this application is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this application that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this application that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
 - (1) The prospective lower tier participant certifies, by submission of this application, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
 - (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this application.

Organization Name

Name and Title of Authorized Representative

Signature

Date

ATTACHMENT E
CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER
RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Energy determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section

1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period receding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. DRUG-FREE WORKPLACE

This certification is required by the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D) and is implemented through additions to the Debarment and Suspension regulations, published in the Federal Register on January 31, 1989, and May 25, 1990.

ALTERNATE 1 (SUB-RECIPIENTS OTHER THAN INDIVIDUALS)

(1) The Sub-recipient certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Sub-recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The Sub-recipient's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing, of his or her conviction for a violation of criminal drug statute occurring in the work-place not later than five calendar days after such conviction;
- (e) Notifying the agency, in writing, within ten calendar days after receiving notice under

subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to energy grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

- (1) Taking appropriate actions against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act 9f 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

(2) The Sub-recipient may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance:

(Street address, city, county, state, zip code)

☐ Check if there are workplaces on file that are not identified here.

ALTERNATE II (SUB-RECIPIENTS WHO ARE INDIVIDUALS)

- (1) The Sub-recipient certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substances in conducting any activity with the grant.
- (2) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

4. LOBBYING DISCLOSURE ACT OF 1995, SIMPSON-CRAIG AMENDMENT

Applicant organization which are described in section 501 (c)(4) of the Internal Revenue Code of 1986 and engage in lobbying activities after December 31, 1995, shall not be eligible for the receipt of Federal funds constituting an award, grant, or loan. Section 501(c)(4) of the Internal Revenue Code of 1986 covers:

Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated persons or person in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

As set forth in the Lobbying Disclosure Act of 1995 (Public Law 104-65, December 19, 1995), as amended [“Simpson-Craig Amendment,” see Section 129 of The Balanced Budget Down payment Act, I (Public Law 104-99, January 26, 1996)], lobbying activities is defined broadly. (See section 3 of the Act.)

The undersigned certifies, to the best of his or her knowledge and belief, that: it IS NOT an organization described in section 501 (c)(4) of the Internal Revenue Code of 1986: OR that it IS an organization described in section 501 (c)(4) of the Internal Revenue Code of 1986, which, after December 31, 1995, HAS NOT engaged in any lobbying activities as defined in the Lobbying Disclosure Act of 1995, as amended.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

Name of Applicant

Pre/Award Number and/or Project Name

Printed Name and Title of Authorized Representative

Signature

Date

ATTACHMENT F

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

1. Type of Federal Action: _____ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance		2. Status of Federal Action: _____ a. bid/offer/application b. initial award c. post award		3. Report Type: _____ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____	
4. Name and Address of Reporting Entity: Name Address _____ Prime _____ Subawardee Tier, if known:			5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:		
6. Federal Department/Agency:			7. Federal Program Name/Description CFDA Number, if applicable:		
8. Federal Action Number, If known:			9. Award Amount, if known:		
10.a. Name and Address of Lobbying Entity: (if individual, last name, first name, MI): (attach Continuation Sheet(s) SF-LLL-A, if necessary)			10.b. Individual Performing Services (including address if different from No. 10A) (last name, first name, MI):		
11. Amount of Payment (check all that apply): \$ _____ actual _____ Planned			12. Form of Payment (check all that apply): a. cash b. in-kind; specify: nature _____ value _____		
13. Type of Payment (check all that apply): _____ a. retainer _____ c. commission _____ e. deferred _____ b. one-time fee _____ d. contingent fee _____ f. other; specify _____					
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11:					
15. Continuation Sheet(s) SF-LLL-A attached: _____ Yes _____ No					
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annual and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure			Authorized Representative: _____ Title: _____ Signature: _____ Telephone: _____ Date: _____		

ATTACHMENT G

ASSURANCES -- NON-CONSTRUCTION PROGRAMS OMB Approval No. 0348-0040

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, Comptroller, the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction sub-agreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93- 234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in flood plains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469 a-1 et seq.)
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

ATTACHMENT H

Intellectual Property Provisions

AUTHORIZATION AND CONSENT (41 CFR 9-9.102-1)

The Government hereby gives its authorization and consent (without prejudice to any rights of indemnification) for all use and manufacture, in the performance of this grant or any part hereof or any amendment hereto or any subcontract hereunder (including all lower-tier subcontracts hereunder), of any invention described in and covered by a patent of the United States.

- (a) embodied in the structure or composition of any article, the delivery of which is accepted by the Government under this grant, or
- (b) utilized in the machinery, tools, or methods, the use of which necessarily results from compliance by the Subrecipient or the using subcontractor with
 - (i) specifications or written provisions now or hereafter forming a part of this grant, or
 - (ii) specific written instructions given by the Contracting Officer directing the manner of performance.

The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clauses, if any, included in this grant or any subcontract hereunder (including all lower-tier subcontracts hereunder), and the Government assumes liability for all other infringement to the extent of the authorization and consent herein above granted.

PATENT INDEMNITY (41 CFR 9-9.103-1)

If the amount of this contract is in excess of \$10,000 the contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States letters patent (except U.S. letters patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) arising out of the manufacture or delivery of supplies or out of construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work. The foregoing indemnity shall not apply unless the contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement, and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply to: (a) an infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the contractor; (b) an infringement resulting from addition to or change in, such supplies or components furnished or construction work performed which addition or change was made subsequent to delivery or performance by the contractor; or (c) a claimed infringement which is settled without the consent of the contractor, unless required by final decree of a court of competent jurisdiction.

NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (41 CFR 9-9.104(b))

The provisions of this clause shall be applicable only if the amount of this loan exceeds \$10,000.

- (a) The Borrower shall report to the Contracting Officer, promptly and in reasonable written detail, each notice of claim of patent or copyright infringement based on the performance of this grant of which the Subrecipient has knowledge.
- (c) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this grant or out of the use of any supplies furnished or work or services performed hereunder, the Borrower shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Borrower pertaining to

such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Borrower has agreed to indemnify the Government.

- (d) This clause shall be included in all contracts and subgrants under this grant.

REPORTING OF ROYALTIES (41 CFR 9-9.110)

If this grant is in an amount which exceeds \$10,000 and if any royalty payments are directly involved in the grant or are reflected in the grant price to the Government, the Borrower agrees to report in writing to the Patent Counsel (with notification by Patent

Counsel to the Contracting Officer) during the performance of this grant and prior to its completion of final settlement the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of this grant together with the names and addresses of licensors to whom such payments are made and either the patent numbers involved or such other information as will permit the identification of the patents or other basis on which the royalties are to be paid. The approval of DOE of any individual payments or royalties shall not stop the Government at any time from contesting the enforceability, validity or scope of, or title to, any patent under which a royalty or payments are made.

RIGHTS IN TECHNICAL DATA (SHORT FORM)

- (a) Definitions. The definitions of terms set forth in DEAR 927.401 apply to the extent these terms are used herein.

- (b) Allocation of Rights.

- (1) The Government shall have:

- (i) Unlimited rights in technical data first produced or specifically used in the performance of this grant;
- (ii) The right of the Contracting Officer or his representatives to inspect, at all reasonable times up to three years after final payment under this grant, all technical data first produced or specifically used in the grant (for which inspection the Borrower or its contractor shall afford proper facilities to DOE); and
- (iii) The right to have any technical data first produced or specifically used in the performance of this grant delivered to the Government as the Contracting Officer may from time-to-time direct during the progress of the work, or in any event as the Contracting Officer shall direct upon completion or termination of this grant.

- (2) The Borrower shall have:

The right to use for its private purposes, subject to patent, security or other provisions of this grant, technical data it first produces in the performance of this loan provided the data requirements of this loan have been met as of the date of the private use of such data. The Borrower agrees that to the extent it receives or is given access to proprietary data or other technical, business or financial data in the form of recorded information from DOE or a DOE contractor or subcontractor, the Borrower shall treat such data in accordance with any restrictive legend contained thereon, unless use is specially authorized by prior written approval of the Contracting Officer.

- (c) Copyrighted Material.

- (1) The Borrower agrees to, and does hereby grant to the Government, and to others acting on its behalf:

- (i) A royalty-free, nonexclusive, irrevocable, worldwide license for Governmental purposes to reproduce, distribute, display, and perform all copyrighted material first produced or composed in the performance of this loan by the Borrower, its employees or any individual or concern

specifically employed or assigned to originate and prepare such material and to prepare derivative works based thereon; and

- (ii) A license as aforesaid under any and all copyrighted or copyrighted work not first produced or composed by the Borrower in the performance of this loan but which is incorporated in the material furnished under the loan, provided that such license shall be only to the extent the Borrower now has, or prior to completion or close-out of the loan, may acquire the right to grant such license without becoming liable to pay compensation to others solely because of such grant.
- (2) The Borrower agrees that it will not knowingly include any material copyrighted by others in any written or copyrighted material furnished or delivered under this loan without a license as provided for in subparagraph (c)

(1) (ii) of this section, or without the consent of the copyright owner, unless it obtains specific written approval of the Contracting Officer for the inclusion of such copyrighted material.

RIGHTS TO PROPOSAL DATA (TECHNICAL) (48 CFR 52.227-23)

It is agreed that as a condition of award of this loan or modification and notwithstanding the conditions of any notice appearing on the proposal(s), the Government shall have the right to use, duplicate, and disclose and have others to do so for any purpose whatsoever, the technical data contained in the proposal(s) upon which the loan or modification is based.

Organization Name

Name and Title of Authorized Representative

Signature

Date

ATTACHMENT I

SUBCONTRACTING PROVISIONS; MANDATORY FLOWDOWN PROVISION

University, if subcontracting any of its performance hereunder, shall legally bind subcontractors to perform and make such Subcontractors subject to all the duties, requirements, and obligations of University under this Agreement. University shall be jointly and severally liable for all performances under this Agreement, including, but not limited to, the performance of its Subcontractors to the extent permitted under the Constitution and laws of the State of Texas.

University represents and warrants that it has obtained all necessary permits, licenses, easements, waivers and permissions of whatsoever kind required for its performance and the performance of its Subcontractors under this Agreement. In no event shall any provision of this Attachment I, including, but not limited to, the requirement that University obtain the prior approval of Comptroller on University's proposed subcontracts, be construed as relieving University of the responsibility for ensuring that all services rendered under any subcontracts comply with all the terms and provisions of this Agreement as if they were rendered by University. University shall, upon request, furnish Comptroller with copies of all proposed subcontracts and all proposed amendments, assignments, cancellations or terminations of said subcontracts no later than thirty (30) days prior to the proposed effective date of such contracts, amendments, assignments, cancellations or terminations; provided, however, that this thirty (30) day period may be shortened by written agreement of the parties. Upon request from Comptroller, University shall provide any and all documentation deemed necessary by Comptroller to evidence Subcontractors compliance with all terms, conditions and performance pertaining to the Agreement and all applicable law.

As the duly authorized representative of the University, I hereby certify that University and subcontractor will comply with the above requirements.

UNIVERSITY:

By: _____

Name: _____

Date: _____

ATTACHMENT J

Comptroller's RFP

Comptroller's RFP No. 210b, issued June 13, 2014, and Comptroller's Official Responses to Questions from Potential Proposers issued _____ (collectively "RFP"), are incorporated by reference for all purposes into this Agreement as Attachment A of this Agreement. In the event of a conflict between Comptroller's RFP and a RFP Addendum, the RFP Addendum shall control.

ATTACHMENT K

HUB Subcontracting Plan

University shall comply with the final executed HUB Subcontracting Plan which is incorporated by reference for all purposes into this Agreement as part of this Attachment K of this Agreement.

ATTACHMENT L

University's Proposal

University's Proposal dated [insert date], is incorporated by reference for all purposes into this Agreement as Attachment L of this Agreement.

ATTACHMENT M



Comptroller
of Public
Accounts
FORM

70-223
(Rev. 8-12/10)

Texas Comptroller of Public Accounts Confidential Treatment of Information Acknowledgement (CTIA)

I have read and understand Comptroller's Summary Public Information Disclosure Manual, a copy of which has been made available to me. I understand that confidential information made available to me by Comptroller's office may include Comptroller's own information and information held by Comptroller's office from other entities. I understand that confidential information is to be held in strictest confidence, and I will act in accordance with applicable federal and state laws, regulations and Comptroller policy regarding the safekeeping and disclosure of confidential information. I understand that I am not to use such information to the detriment of Comptroller's office or the state of Texas.

I understand that it is my responsibility to consult with Comptroller's office and obtain approval to disclose confidential information made available to me, and to ensure that any and all disclosures I make are made to people or entities authorized to receive such information.

I understand that I shall either return to Comptroller's office or destroy any confidential information in my possession when I no longer require such information for authorized purposes.

I understand that computer system password(s) I receive or devise to access computer systems, which may be made available to me for my use by Comptroller's office, are confidential. I will not disclose to any unauthorized person any password(s) which I am given or devise, and I will not write such password(s) or post them where they may be viewed by unauthorized people. I understand that I am responsible for any computer transactions performed as a result of access authorized by use of my password(s). I understand that use of a password not issued specifically to me, or to a group of which I am a member, is expressly prohibited.


I understand that criminal and/or civil penalties may apply if I obtain unauthorized access to, or make an unauthorized disclosure of, certain types of confidential information (e.g., IRS Federal Taxpayer Information, Protected Health Information, and Sensitive Personal Information). Such penalties may include, but are not limited to, the following:

- A misdemeanor, punishable by up to 1 year in jail and/or up to a \$1,000 fine (Texas Tax Code Section 171.361)
- A misdemeanor, punishable by up to 180 days in jail and/or a fine of up to \$2,000 (Texas Tax Code Section 22.27(c))
- A felony, punishable by up to 5 years in prison and/or a fine of up to \$5,000 (26 U.S.C. Section 7213(a))

I understand that an attempt to circumvent any computer security system or other security control by any means is a violation of Comptroller policy. I also understand that failure to observe these restrictions may constitute a "Breach of Computer Security" as defined in Texas Penal Code, Section 33.02(b), and that such an offense constitutes a Class A or Class B misdemeanor, a state jail felony, or a felony of the first, second or third degree.

I understand that any copyrighted material including, but not limited to, commercial computer software, which may be made available to me for my use by Comptroller's office, is protected by copyright laws and is not to be copied for any reason without permission from the copyright owner. I understand that the violation of copyright laws, including computer software, may result in fines and/or imprisonment.

By my signature hereon, I acknowledge my understanding of the contents of this form and the continued applicability of these provisions after my access to confidential information and computer systems has been terminated.

Printed name of person requesting access		Name of employer	
sign here 	Signature of person requesting access		Work phone (Area code and number)
	Date		Work email address

Under Ch. 559, Government Code, you are entitled to review, request, and correct information we have on file about you, with limited exceptions in accordance with Ch. 552, Government Code. To request information for review or to request error correction, contact your Comptroller Project Manager.

EXHIBIT B
EXECUTION OF PROPOSAL

1. By signature hereon, Respondent represents and warrants that the provisions in this Execution of Proposal apply to Respondent and all of Respondent's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this RFP or any contract resulting from it.
2. By signature hereon, Respondent represents and warrants that it has read and understood and shall comply with Comptroller's Anti-Fraud Policy, located on Comptroller's website at <http://www.window.texas.gov/ssv/ethics.html>, as such Policy currently reads and as it is amended throughout the term of any resulting contract.
3. By signature hereon, Respondent represents and warrants that each employee, including "replacement employees", will possess the qualifications, education, training, experience and certifications necessary to perform the services in the manner required by this RFP.
4. By signature hereon, Respondent represents and warrants that it has no actual or potential conflicts of interest in providing the requested items to Comptroller under the RFP and any resulting contract, if any, and that Respondent's provision of the requested items under the RFP and any resulting contract, if any, would not reasonably create an appearance of impropriety.
5. By signature hereon, pursuant to Section 2155.003 of the Texas Government Code, Respondent represents and warrants that it has not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted Proposal.
6. By signature hereon, Respondent represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
7. By signature hereon, Respondent hereby represents and warrants that, pursuant to 15 U.S.C. Sec. 1, *et seq.* and Tex. Bus. & Comm. Code Sec. 15.01, *et seq.*, neither Respondent nor the firm, corporation, partnership, or institution represented by Respondent, nor anyone acting for such a firm, corporation or institution has violated the antitrust laws of this state, federal antitrust laws or communicated directly or indirectly the Proposal made to any competitor or any other person engaged in such line of business.
8. By signature hereon, Respondent represents and warrants that all statements and information prepared and submitted in response to this RFP are current, complete, and accurate.
9. By signature hereon, Respondent represents and warrants that the individual signing this document and the documents made part of this RFP is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any contract which may result from the submission of Respondent's Proposal.
10. By signature hereon, Respondent represents and warrants that if a Texas address is shown as the address of Respondent, Respondent qualifies as a Texas Bidder as defined by 34 Texas Administrative Code §20.32(68).
11. Check below if preference claimed under 34 Texas Administrative Code §20.38:
 - ☐ Goods produced or offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - ☐ Goods produced in Texas or offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
 - ☐ Agricultural products grown in Texas
 - ☐ Agricultural products offered by a Texas bidder
 - ☐ Services offered by a Texas bidder that is owned by a Texas resident service-disabled veteran

- ☐ Services offered by a Texas bidder that is not owned by a Texas resident service disabled veteran
- ☐ Texas Vegetation Native to the Region
- ☐ USA produced supplies, materials or equipment
- ☐ Products of persons with mental or physical disabilities
- ☐ Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel
- ☐ Energy Efficient Products
- ☐ Rubberized asphalt paving material
- ☐ Recycled motor oil and lubricants
- ☐ Products produced at facilities located on formerly contaminated property
- ☐ Products and services from economically depressed or blighted areas
- ☐ Vendors that meet or exceed air quality standards
- ☐ Recycled or Reused Computer Equipment of Other Manufacturers
- ☐ Foods of Higher Nutritional Value
- ☐ Commercial production company or advertising agency located in Texas

12. By signature hereon, under Section 231.006, Texas Family Code, regarding child support, Respondent certifies that the individual or business named in the Proposal is not ineligible to receive the specified payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, any Respondent subject to Section 231.006, Texas Family Code, must include names and Social Security numbers of each person with at least 25% ownership of the business entity submitting the Proposal. This information must be provided prior to award. Enter the Name and Social Security Number for each person below:

Name: _____	SSN: _____
Name: _____	SSN: _____
Name: _____	SSN: _____

FEDERAL PRIVACY ACT NOTICE: This notice is given pursuant to the Federal Privacy Act. Disclosure of your Social Security Number (SSN) is required under Section 231.006(c) and Section 231.302(c)(2), Texas Family Code. The SSN will be used to identify persons that may owe child support. The SSN will be kept confidential to the fullest extent allowed under Section 231.302(e), Texas Family Code.

13. By signature hereon, Respondent represents and warrants that no relationship, whether by relative, business associate, capital funding contract or by any other such kinship exists between Respondent and an employee of any Comptroller component, and Respondent has not been an employee of any Comptroller component within the immediate twelve (12) months prior to Respondent's Proposal. By signature hereon, Respondent certifies that it is in compliance with Section 669.003 of the Texas Government Code, relating to contracting with executive head of a state agency. Enter the name of any current or former executive head of a Texas State Agency that is currently employed by Respondent below:

Name of Former Executive: _____
 Name of State Agency: _____
 Date of Separation from State Agency: _____
 Position with Respondent: _____
 Date of Employment with Respondent: _____

All such disclosures will be subject to administrative review and approval prior to Comptroller entering into any contract with Respondent. Respondent acknowledges that any contract resulting from this RFP may be terminated at any time, and payments withheld, if this information is false.

14. By signature hereon, pursuant to Section 2155.004(a) of the Texas Government Code, Respondent represents and warrants that neither it nor any person or entity which will participate financially in any contract resulting from this RFP has received compensation for participation in the preparation of specifications for this RFP. Further, under Section 2155.004(b) of the Texas Government Code, Respondent certifies that the individual or business entity named in this Proposal or any contract resulting from this RFP is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and payment withheld if this certification is inaccurate.
15. By signature hereon, Respondent represents and warrants that all articles and services quoted in response to this RFP meet or exceed the safety standards established and promulgated under the *Federal Occupational Safety and Health Law* and its regulations in effect or proposed as of the date of this solicitation.
16. By signature hereon, Respondent represents and warrants its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
17. By signature hereon, in accordance with Section 2155.4441 of the Texas Government Code, Respondent agrees that during the performance of a contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.
18. By signature hereon, Respondent represents and warrants that Comptroller's payments to Respondent and Respondent's receipt of appropriated or other funds under any contract resulting from this RFP are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code.
19. By signature hereon, Respondent represents and warrants that the offering entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity and that Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.
20. Sections 2155.006 and 2261.053 of the Texas Government Code, prohibit state agencies from awarding a contract to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, Respondent certifies that the individual or business entity named in its Proposal is not ineligible to receive the specified contract and acknowledges that any contract resulting from this RFP may be terminated and payment withheld if this certification is inaccurate.
21. By signature hereon, Respondent represents and warrants that it is not aware of and has received no notice of any court or governmental agency actions, proceedings or investigations, etc., pending or threatened against Respondent or any of the individuals or entities included in Part 1 of this document within the five (5) calendar years immediately preceding the submission of Respondent's Proposal in response to this RFP that would or could impair Respondent's performance under any contract resulting from this RFP, relate to the solicited or similar goods or services, or otherwise be relevant to CPA's consideration of Respondent's Proposal. If Respondent is unable to make the preceding representation and warranty, then Respondent instead represents and warrants that it has included as a detailed attachment in its Proposal a complete disclosure of any such court or governmental agency actions, proceedings or investigations, etc. that would or could impair Respondent's performance under any contract resulting from this RFP, relate to the solicited or similar goods or services, or otherwise be relevant to CPA's consideration of Respondent's Proposal. In addition, Respondent represents and warrants that it shall notify CPA in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely

update CPA shall constitute breach of contract and may result in immediate termination of any agreement resulting from this RFP.

22. By signature hereon, Respondent represents and warrants that it has read and agrees to all terms and conditions of this RFP, unless Respondent specifically takes an exception and offers an alternative provision in Respondent's Proposal as provided in Part III, Section 3.2. (Transmittal Letter) of this RFP.

Authorized representative on behalf of Respondent must complete and sign the following:

<hr/> Signature of Authorized Representative	<hr/> Date Signed
<hr/> Printed Name and Title of Authorized Representative	<hr/> Phone Number
<hr/> Organization Name ("Respondent")	<hr/> Fax Number
<hr/> Federal Employer Identification Number	<hr/> Email Address
<hr/> Physical Street Address	<hr/> City, State, Zip Code
<hr/> Mailing Address, if different	<hr/> City, State, Zip Code

EXHIBIT C
HUB SUBCONTRACTING PLAN (HSP)



Rev. 02/12

HUB SUBCONTRACTING PLAN (HSP)

QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

- ❖ If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:
 - ☐ Section 1 – Respondent and Requisition Information
 - ☐ Section 2 a. – Yes, I will be subcontracting portions of the contract
 - ☐ Section 2 b. – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors
 - ☐ Section 2 c. – Yes
 - ☐ Section 4 – Affirmation
 - ☐ GFE Method A (Attachment A) – Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- ❖ If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you have a continuous contract* in place for five (5) years or less meets or exceeds the HUB Goal the contracting agency identified in the “Agency Special Instructions/Additional Requirements”, complete:
 - ☐ Section 1 – Respondent and Requisition Information
 - ☐ Section 2 a. – Yes, I will be subcontracting portions of the contract
 - ☐ Section 2 b. – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors
 - ☐ Section 2 c. – No
 - ☐ Section 2 d. – Yes
 - ☐ Section 4 – Affirmation
 - ☐ GFE Method A (Attachment A) – Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- ❖ If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you have a continuous contract* in place for five (5) years or less does not meet or exceed the HUB Goal the contracting agency identified in the “Agency Special Instructions/Additional Requirements”, complete:
 - ☐ Section 1 – Respondent and Requisition Information
 - ☐ Section 2 a. – Yes, I will be subcontracting portions of the contract
 - ☐ Section 2 b. – List all the portions of work you will subcontract, and indicated the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors
 - ☐ Section 2 c. – No
 - ☐ Section 2 d. – No
 - ☐ Section 4 – Affirmation
 - ☐ GFE Method B (Attachment B) – Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.
- ❖ If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources, complete:
 - ☐ Section 1 – Respondent and Requisition Information
 - ☐ Section 2 a. – No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources
 - ☐ Section 3 – Self Performing Justification
 - ☐ Section 4 – Affirmation

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into “new” contracts.



HUB SUBCONTRACTING PLAN (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.13 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders contracts,**
- **32.7 percent for all special trade construction contracts,**
- **23.6 percent for professional services contracts,**
- **24.6 percent for all other services contracts, and**
- **21 percent for commodities contracts.**

-- Agency Special Instructions/Additional Requirements --

In accordance with 34 TAC §20.14(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only contracts that have been in place for five years or less shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.

The Texas Comptroller of Public Accounts is fully committed to increasing contracting opportunities with HUBs by contracting directly with HUBs or indirectly through subcontracting opportunities. Therefore, we ask that you please consider utilizing HUBs in subcontracting areas which are listed below, but in no way should this list be considered exhaustive.

If your bid/proposal/offer does not contain a complete HSP and supporting documentation, your bid will be considered non-responsive and will be disqualified. Once awarded, respondent will be subject to debarment pursuant to Texas Gov't Code §2161.253(d) if any modifications are made to the HSP without PRIOR approval from this agency. For assistance in completing the HSP, contact the CPA HUB Administrator at cassandra.johnson@cpa.texas.gov or 800-531-5441 Ext. 34120, or visit the following website for step by step information: <http://www.window.texas.gov/procurement/prog/hub/hub-subcontracting-plan>. If you are not subcontracting any portion of the contract, the self-performance justification statement (Section 3) must be completed. If you are subcontracting, your supporting documentation of "Good Faith Effort" must be demonstrated in either Method A (Attachment A) or Method B (Attachment B).

PLEASE NOTE: As the Texas Comptroller of Public Accounts continues its commitment to promote the HUB program, we are extending our "Good Faith Efforts" by also requiring an HSP on contracts with an expected value of \$25,000 to \$99,999. Therefore, we ask that you also consider utilizing HUBs in subcontracting areas which are listed below.

Class	Item	Description
924	19	Advisory Services, Education
961	28	Economic Development, Domestic and Foreign
961	31	Energy Comprehensive Performance Services
961	44	Industrial Development and Planning Services

SECTION 1 RESPONDENT AND REQUISITION INFORMATION

- a. Respondent (Company) Name: _____ State of Texas VID #: _____
Point of Contact: _____ Phone #: _____
E-mail Address: _____ Fax #: _____
- b. Is your company a State of Texas certified HUB? ☐ - Yes ☐ - No
- c. Requisition #: _____ Bid Open Date: ____ / ____ / ____
(mm/dd/yyyy)

Enter your company's name here: _____ Requisition #: _____

SECTION 2 SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, including goods and services, will be subcontracted. Note: In accordance with 34 TAC §20.11., an "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- ☐ - **Yes**, I will be subcontracting portions of the contract. (If **Yes**, complete Item b, of this SECTION and continue to Item c of this SECTION.)
- ☐ - **No**, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources. (If **No**, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract</u> * in place for five (5) years or less.	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract</u> * in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to non-HUBs .
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <http://window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>)

c. Check the appropriate box (Yes or No) that indicates whether you will be using only Texas certified HUBs to perform all of the subcontracting opportunities you listed in SECTION 2, Item b.

- ☐ - **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
- ☐ - **No** (If **No**, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the **aggregate expected percentage** of the contract you will subcontract with Texas certified HUBs with which you have a continuous contract* in place with for five (5) years or less **meets or exceeds** the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements".

- ☐ - **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
- ☐ - **No** (If **No**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Requisition #: _____

SECTION 2

a. This page can be used as a continuation sheet to the HSP Form's page 2, SECTION 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

[illegible]

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

SECTION 3 SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.)

Check the appropriate box (Yes or No) that indicates whether your response/proposal contains an explanation demonstrating how your company will fulfill the entire contract with its own resources.

- ☐ - **Yes** (If **Yes**, in the space provided below **list the specific page(s)/section(s)** of your proposal which explains how your company will perform the entire contract with its own equipment, supplies, materials and/or employees.)
- ☐ - **No** (If **No**, in the space provided below **explain how** your company will perform the entire contract with its own equipment, supplies, materials and/or employees.)

SECTION 4 AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to **all** the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/progressassessmentrpt.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature

Printed Name

Title

Date
(mm/dd/yyyy)

REMINDER: ➤ If you responded "**Yes**" to **SECTION 2, Items c or d**, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed in SECTION 2, Item b.

➤ If you responded "**No**" **SECTION 2, Items c and d**, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed in SECTION 2, Item b.

HSP Good Faith Effort - Method A (Attachment A)

(Rev. 02/12)

Enter your company's name here: _____ Requisition #: _____

IMPORTANT: If you responded "Yes" to SECTION 2, Items c or d of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/HUBSubcontractingPlanAttachment-A.doc>

SECTION A-1 SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing this attachment.

Item #: _____ Description: _____

SECTION A-2 SUBCONTRACTOR SELECTION

List the subcontractor(s) you selected to perform the subcontracting opportunity you listed above in SECTION A-1. Also identify whether they are a Texas certified HUB and their VID number, the approximate dollar value of the work to be subcontracted, the expected percentage of work to be subcontracted, and indicate whether the company is a Texas certified HUB.

Company Name	Texas certified HUB	VID # (Required if Texas certified HUB)	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.

HSP Good Faith Effort - Method B (Attachment B)

(Rev. 02/12)

Enter your company's name here: _____ Requisition #: _____

IMPORTANT: If you responded "**No**" to **SECTION 2, Items c and d** of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/HUBSubcontractingPlanAttachment-B.doc>

SECTION B-1 SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing this attachment.

Item #: _____ Description: _____

SECTION B-2 MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in SECTION B-1, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

☐ - **Yes** (If **Yes**, to continue to SECTION B-4.)

☐ - **No / Not Applicable** (If **No** or **Not Applicable**, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3 NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items **a, b, c and d**, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs **and** minority or women trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs **and** minority or women trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs **and** to the minority or women trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

- a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to **three (3)** or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs **at least seven (7) working days** to respond to the notice prior to your submitting your bid response to the contracting agency. When searching for Texas certified HUBs, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) and Historically Underutilized Business (HUB) Search directory located at <http://www.window.state.tx.us/procurement/cmb/cmbhub.html>. HUB Status code "**A**" signifies that the company is a Texas certified HUB.
- b. List the **three (3)** Texas certified HUBs you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Vendor ID (VID) number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	VID #	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
		/ /	<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		/ /	<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		/ /	<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to **two (2)** or more minority or women trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to minority or women trade organizations or development centers **at least seven (7) working days** prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/>
- d. List **two (2)** minority or women trade organizations or development centers you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Minority/Women Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
	/ /	<input type="checkbox"/> - Yes <input type="checkbox"/> - No
	/ /	<input type="checkbox"/> - Yes <input type="checkbox"/> - No

HSP Good Faith Effort - Method B (Attachment B) Cont.

Enter your company's name here: _____ Requisition #: _____

SECTION B-4 SUBCONTRACTOR SELECTION

a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item #: _____ Description: _____

b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas certified HUB and their VID number, the approximate dollar value of the work to be subcontracted, the expected percentage of work to be subcontracted, and indicate whether the company is a Texas certified HUB.

Company Name	Texas certified HUB	VID # (Required if Texas certified HUB)	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in SECTION B-1 is **not** a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to **all** the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded



Subcontracting Opportunity Notification Form

(Rev. 02/12)

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in **Section B** has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.14 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more minority or women trade organizations or development centers at least seven (7) working days prior to submitting its bid response to the contracting agency.

We respectfully request that vendors interested in bidding on the subcontracting opportunity scope of work identified in **Section C, Item 2**, reply no later than the date and time identified in **Section C, Item 1**. Submit your response to the point-of-contact referenced in **Section A**.

Section A

PRIME CONTRACTOR'S INFORMATION

Company Name: _____

State of Texas VID #: _____

Point-of-Contact: _____

Phone #: _____

E-mail Address: _____

Fax #: _____

Section B

CONTRACTING STATE AGENCY AND REQUISITION INFORMATION

Agency Name: _____

Point-of-Contact: _____

Phone #: _____

Requisition #: _____

Bid Open Date: _____

(mm/dd/yyyy)

Section C

SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE, DESCRIPTION, REQUIREMENTS AND RELATED INFORMATION

1. Potential Subcontractor's Bid Response Due Date:

If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2, we must receive your bid response no later than Central Time on: _____

Date
(mm/dd/yyyy)

In accordance with 34 TAC §20.14, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, we must provide the same notice to two (2) or more minority or women trade organizations or development centers at least seven (7) working days prior to submitting our bid response to the contracting agency.

(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the minority or women trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)

2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications: ☐ - Not Applicable

4. Bonding/Insurance Requirements: ☐ - Not Applicable

5. Location to review plans/specifications: ☐ - Not Applicable

EXHIBIT D
CRIMINAL CONVICTION CERTIFICATION

This Criminal Conviction Certification Form is incorporated as part of Respondent's proposal and any resulting Agreement for all purposes.

Respondent represents and warrants that it shall comply with all of the following requirements:

Respondent must take appropriate steps and perform due diligence — at a minimum, as described in this Exhibit D -- to become informed as to each assigned employee's felony criminal convictions, if any, and must promptly inform Comptroller's Contract Administrator of any such felony criminal convictions for any assigned employee. At a minimum, Respondent must take these appropriate steps and perform due diligence at each of these three (3) intervals: (1) within the seven (7) business days immediately prior to submission of Respondent's proposal; (2) within the seven (7) business days prior to the proposed effective date of any renewal or extension of this Agreement; and (3) within the seven (7) business days prior to requesting approval for assignment of a new employee (such as a substitute employee). Respondent must inform Comptroller in writing within three (3) business days of Respondent's receipt of any information on any felony convictions of assigned employees obtained from any of these steps at any of these intervals.

At each of the above three (3) intervals, Respondent must take minimum steps to review and perform due diligence of every assigned employee's criminal history. Respondent's minimum steps shall include, at a minimum, (1) Respondent's compliance with Respondent's published employee policies and procedures for background and criminal checks of Respondent's employees and (2) Respondent's comprehensive search of the public information portion of an online criminal conviction database, such as the DPS criminal conviction database at: <https://records.txdps.state.tx.us/DpsWebsite/>. If such DPS criminal conviction database is not appropriate for a particular assigned employee, Respondent must submit with its proposal, its renewal or extension, or with its request for assignment, as appropriate, sufficient documentation that an equivalent or more extensive search was conducted and that the alternative is appropriate for that assigned employee.

Upon request by Comptroller's Criminal Investigation Division, Respondent must provide to Comptroller's Criminal Investigation Division, no later than five (5) business days after receiving such request, the written results of these minimum steps for all assigned employees.

For purposes of this Exhibit D, "assigned employees" includes, without limitation, all employees or personnel, for example, who will or may (1) be assigned as lead or key employees or personnel under this Agreement; (2) interact on site at Comptroller's premises with any Comptroller personnel, assets, records or resources in connection with this Agreement; or (3) otherwise access or interact with any assets, records or resources of Comptroller in connection with this Agreement.

By signing this form and initialing the appropriate space, Respondent represents and warrants that it took the above minimum steps and performed due diligence as required by this Exhibit D to become informed as to each assigned employee's felony convictions. If one or more proposed individuals have felony convictions, Respondent must describe the nature and timing of each conviction in a separate letter as part of Respondent's proposal (and in its renewal or extension, request for assignment, etc., as appropriate).

If Comptroller becomes aware that the completed certification form is false, or if Respondent fails to promptly advise Comptroller of a felony criminal conviction occurring after the certification becomes

effective, Respondent shall be in breach of this Agreement and Comptroller shall have the option to terminate the Agreement without further obligation to Respondent and may pursue all other remedies and rights available to Comptroller under this Agreement, at law, or in equity.

Respondent must have an authorized company representative initial and sign this document in the blanks provided below, and must return the initialed and signed form along with the other required paperwork with its proposal (and as appropriate, its renewal or extension, or with its request for assignment).

Respondent shall indicate, by initialing in the space provided to the left of Items 1-2 below, its intent to comply with these provisions. Respondent **shall initial below EITHER Item 1 or Item 2 as applicable. DO NOT INITIAL BOTH ITEMS.** Additionally, Respondent shall sign, date, and provide the title of the person executing this Criminal Conviction Certification on its behalf in the space provided below at the end of this document.

1. _____ Respondent represents and warrants that it performed all minimum steps and due diligence described in this Exhibit D and that all currently assigned employees and all employees proposed for assignment have no felony criminal convictions. (If Respondent cannot make this unqualified representation and warranty, Respondent must initial Item 2 below and provide detailed information requested in Item 2 as a separate attachment to this Exhibit D, detailing and explaining any such convictions.) Further, Respondent represents and warrants that it shall notify Comptroller's Contract Administrator in writing if any future proposed employee (for example, a substitute or other newly assigned employee) has any felony criminal conviction or if any information for any previously assigned employee has changed, no later than three (3) business days prior to such proposed employee's proposed assignment starting date or no later than three (3) business days after Respondent's receipt of such changed information, whichever is applicable.

OR

2. _____ Respondent represents and warrants that the attached detailed information describes the nature and timing of each felony conviction for each employee listed. Respondent represents and warrants that it shall notify Comptroller's Contract Administrator in writing of any changes or updates to the information provided with this Exhibit D or subsequently provided no later than three (3) business days after Respondent's receipt of such changed or updated information. Respondent represents and warrants that it provided with this Exhibit D a separate attached document detailing and explaining these convictions. Further, Respondent represents and warrants that it shall notify Comptroller's Contract Administrator in writing if any future proposed employee (for example, a substitute or other newly assigned employee) has any felony criminal conviction or if any information for any previously assigned employee has changed, no later than three (3) business days prior to such proposed employee's proposed assignment starting date or no later than three (3) business days after Respondent's receipt of such changed information, whichever is applicable.

Signature of Authorized Representative

Date Signed

Printed Name of Authorized Representative

Title of Authorized Representative

EXHIBIT E
NONDISCLOSURE AGREEMENT

In consideration of Texas Comptroller of Public Accounts ("CPA") communicating with the undersigned Respondent regarding a potential contract resulting from the referenced solicitation (*e.g.*, RFP, RFO, IFB) and because of the sensitivity of certain information provided to Respondent, both parties agree that all information regarding CPA or gathered, produced, collected or derived from or related to the potential contract, or provided to Respondent under a resulting contract ("Confidential Information") must remain confidential subject to release only upon prior written approval of CPA, and more specifically agree as follows:

1. The Confidential Information may be used by Respondent only to assist Respondent in connection with the business relationship contemplated in the solicitation or performance of a contract with CPA resulting from the solicitation.
2. Respondent shall not, at any time, use the Confidential Information in any fashion, form, or manner except in its capacity as proposed consultant or independent contractor to CPA.
3. Unless otherwise provided in the solicitation or resulting contract, Respondent agrees to maintain the confidentiality of all Confidential Information in the same manner that it protects the confidentiality of its own materials of like kind, but in no event less than reasonable care. Respondent shall take reasonable precautions to protect the Confidential Information including, but not limited to, not disclosing Confidential Information in any manner to any person, firm, or entity, except for authorized employees, agents, or contractors of Respondent with a need to know who are bound by confidentiality obligations at least as stringent as those contained in this agreement prior to any disclosure of such Confidential Information.
4. The Confidential Information may not be copied, reproduced, disclosed, distributed, or otherwise divulged without CPA's prior written approval. Confidential Information and any copies thereof shall be CPA's exclusive property.
5. All Confidential Information made available to Respondent, including copies thereof, must be returned to CPA upon the first to occur of (a) expiration or termination of any contract resulting from the solicitation, or (b) request by CPA.
6. The foregoing does not prohibit or limit Respondent's use of the information (including, but not limited to, ideas, concepts, know-how, techniques and methodologies) (a) previously known to it, provided such prior knowledge was not subject to a confidentiality obligation, (b) independently developed by it, (c) acquired by it from a third party under no obligation of confidentiality to CPA, (d) which is or becomes part of the public domain through no breach by Respondent of this nondisclosure agreement or other contractual obligations to CPA, or (e) approved by CPA in writing for unrestricted disclosure.
7. If Respondent is required by applicable law, regulation, or legal process to disclose any Confidential Information, then Respondent shall provide CPA with prompt notice of any such requirement prior to delivery of the Confidential Information to allow CPA a reasonable opportunity to seek a protective order or equivalent.
8. This nondisclosure agreement shall become effective as of the date Confidential Information is first made available to Respondent and shall survive the expiration or termination of any contract resulting from the solicitation and be a continuing requirement.
9. The breach of this nondisclosure agreement by Respondent shall entitle CPA to immediately terminate any contract with Respondent resulting from the solicitation upon written notice to Respondent for such breach. The parties acknowledge that the measure of damages in the event of a breach of this nondisclosure agreement may be difficult or impossible to calculate, depending on the nature of the breach. Regardless of whether CPA elects to terminate any contract with Respondent resulting from the solicitation upon the breach hereof, CPA may require Respondent to pay to CPA the sum of \$5,000 for each breach as liquidated damages. This amount is not intended to be in the nature of a penalty, but is intended to be a reasonable estimate of the amount of damages to CPA in the event of a breach hereof by Respondent of this nondisclosure agreement. CPA does not waive any right to seek additional relief, either equitable or otherwise, concerning any breach of this nondisclosure agreement.
10. This nondisclosure agreement is governed by and construed under the laws of the State of Texas. Any and all obligations of this agreement are due in Travis County, Texas and venue is proper in only such county.

Signature of Authorized Representative

Date Signed

Printed Name & Title of Authorized Representative

Company Name ("Respondent")

EXHIBIT F
CONFLICT OF INTEREST STATEMENT

[To be prepared and signed by Respondent (Refer to Section 4.2.N of the RFP)]

Signature of Authorized Representative

Date Signed

Printed Name of Authorized Representative

Title of Authorized Representative

EXHIBIT G
COST PROPOSAL FORMAT

COST PROPOSAL

Using this form, each respondent must state its proposed rates and costs under the Contract and all fees, expenses, and other amounts must be included. All proposed hourly rates must be listed and broken out by key personnel and by function and also by subcontractor, where applicable. See Chart on next page of this Exhibit G of this RFP for an example.

Total Proposed Cost \$ _____

Estimated Other Expenses: \$ _____

Total Cost Subject to Evaluation: \$ _____

Required Match \$ _____

Name of Respondent: _____

Signature: _____

Date: _____

Exhibit G—Continued

Cost Proposal Chart Example

Firm Name	Personnel Name	Hourly Rate (By Task & Deliverable)	No. of Hours	Total Fees	Other Expenses	Total Cost/amount
ABC Institution	John Doe	\$		\$	\$	\$
ABC Institution	Jack Frost	\$		\$	\$	\$
Subcontractor Firm ABC	Susan Winters	\$		\$	\$	\$
Subcontractor Firm DEF	Charles White	\$		\$	\$	\$
Match	Sources	\$		\$		\$
TOTAL			Total Hours	Total Cost of entire staff proposed	Total Cost of any other expenses	Total Cost of Staff and Other Expenses (exclusive of required 20% Match)

Signed: _____ Date: _____
Printed Name & Title